



REQUEST FOR PROPOSALS

City of Hampton
ISSUING OFFICE:

Consolidated Procurement Div.
1 Franklin Street, Suite 345
HAMPTON, VA 23669
TELEPHONE: (757) 727-2200
FAX: (757) 727-2207

DATE: November 21, 2017

Attention of Offeror is Directed To Section
2.2-4367 to 2.2-4377 Code of Virginia
(Ethics In Public Contracting)

SEALED PROPOSALS will be received in the Issuing Office above until Closing Date and Closing Time as specified in this solicitation including any addenda issued by this office. HCS of Hampton is not responsible for late delivery by U.S. Postal mail or other couriers. All inquiries for information regarding this Request for Proposal are to be directed to the Issuing Office as defined herein.

COMMODITY: Benefit Management Software
NIGP CODE: 20880, 20987, 92056

**PLEASE FILL IN OFFEROR'S NAME & ADDRESS
IN THE SPACES PROVIDED BELOW:**

THIS IS NOT AN ORDER

THE SCHOOL BOARD OF THE CITY OF HAMPTON, HEREAFTER REFERRED TO AS "HCS", RESERVES THE RIGHT TO ACCEPT OR REJECT ANY AND ALL PROPOSALS IN WHOLE OR IN PART AND WAIVE ANY INFORMALITIES IN THE COMPETITIVE NEGOTIATIONS PROCESS. FURTHER, HCS RESERVES THE RIGHT TO ENTER INTO ANY CONTRACT DEEMED TO BE IN ITS BEST INTEREST. THE ENTIRE CONTENTS OF THE REQUEST FOR PROPOSALS, ANY ADDENDA, OFFEROR'S PROPOSAL AND NEGOTIATED CHANGES SHALL BE INCORPORATED BY REFERENCE INTO ANY RESULTING CONTRACT.

THE SCHOOL BOARD OF THE CITY OF HAMPTON DOES NOT DISCRIMINATE AGAINST FAITH-BASED ORGANIZATIONS.

The School Board of The City of Hampton is seeking proposals from qualified Offerors to provide a packaged software product(s) to fulfill the Financial and Personnel management requirements of the Hampton City Schools Division.

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1____ #2____ #3____ #4____ (Please Initial)

THE SCHOOL BOARD OF THE CITY OF HAMPTON CANNOT LEGALLY AGREE TO ANY CLAUSE INDEMNIFYING THE CONTRACTOR FROM ANY DAMAGES ARISING OUT OF THE CONTRACT/AGREEMENT/LEASE OR HOLDING THE CONTRACTOR HARMLESS. THE SUBMISSION OF A PROPOSAL CONSTITUTES AN AGREEMENT BY THE CONTRACTOR NOT TO REQUEST SUCH LANGUAGE IN THE RESULTING CONTRACT. IN COMPLIANCE WITH THIS SOLICITATION AND TO ALL THE CONDITIONS IMPOSED HEREIN, THE UNDERSIGNED AGREES TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION. THE FOLLOWING SECTION SHALL BE SIGNED BY AN AGENT AUTHORIZED TO BIND THE COMPANY. FAILURE TO EXECUTE THIS PORTION MAY RESULT IN PROPOSAL REJECTION.

Authorized Agent:

Signature

Type or Print Name

Email Address
ENCLOSURES

Telephone Number

Fax Number

Company FEI/FIN#

RFP 18-180713/EA

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|---|
| RFP ITEM NO. 18-180713/EA |
| PROCUREMENT OFFICER Erika Allen, VCO, VCA Senior Buyer |
| CLOSING DATE December 19, 2017 |
| CLOSING TIME 4:00 P.M. EST |
| PREPROPOSAL CONFERENCE DATE: N/A TIME: N/A |

ANTI-COLLUSION/NONDISCRIMINATION/DRUG-FREE WORKPLACE REQUIREMENTS

ANTI-COLLUSION CLAUSE:

IN THE PREPARATION AND SUBMISSION OF THIS PROPOSAL, SAID OFFEROR DID NOT EITHER DIRECTLY OR INDIRECTLY ENTER INTO ANY COMBINATION OR ARRANGEMENT WITH ANY PERSON, FIRM OR CORPORATION, OR ENTER INTO ANY AGREEMENT, PARTICIPATE IN ANY COLLUSION, OR OTHERWISE TAKE ANY ACTION IN VIOLATION OF THE SHERMAN ACT (15 U.S.C. SECTION 1), SECTIONS 59.1-9.1 THROUGH 59.1-9.17 OR SECTIONS 59.1-68.6 THROUGH 59.1-68.8 OF THE CODE OF VIRGINIA.

THE UNDERSIGNED OFFEROR HEREBY CERTIFIES THAT THIS AGREEMENT, OR ANY CLAIMS RESULTING THEREFROM, IS NOT THE RESULT OF, OR AFFECTED BY, ANY ACT OF COLLUSION WITH, OR ANY ACT OF, ANOTHER PERSON OR PERSONS, FIRM OR CORPORATION ENGAGED IN THE SAME LINE OF BUSINESS OR COMMERCE; AND, THAT NO PERSON ACTING FOR, OR EMPLOYED BY, CITY HAS AN INTEREST IN, OR IS CONCERNED WITH, THIS PROPOSAL; AND, THAT NO PERSON OR PERSONS, FIRM OR CORPORATION OTHER THAN THE UNDERSIGNED, HAVE, OR ARE, INTERESTED IN THIS PROPOSAL.

DRUG-FREE WORKPLACE:

DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES TO (I) PROVIDE A DRUG-FREE WORKPLACE FOR THE CONTRACTOR'S EMPLOYEES; (II) POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, A STATEMENT NOTIFYING EMPLOYEES THAT THE UNLAWFUL MANUFACTURE, SALE, DISTRIBUTION, DISPENSATION, POSSESSION, OR USE OF A CONTROLLED SUBSTANCE OR MARIJUANA IS PROHIBITED IN THE CONTRACTOR'S WORKPLACE AND SPECIFYING THE ACTIONS THAT WILL BE TAKEN AGAINST EMPLOYEES FOR VIOLATIONS OF SUCH PROHIBITION; (III) STATE IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR THAT THE CONTRACTOR MAINTAINS A DRUG-FREE WORKPLACE; AND (IV) INCLUDE THE PROVISIONS OF THE FOREGOING CLAUSES IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER \$10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

FOR THE PURPOSE OF THIS SECTION, "DRUG-FREE WORKPLACE" MEANS A SITE FOR THE PERFORMANCE OR WORK DONE IN CONNECTION WITH A SPECIFIC CONTRACT AWARDED TO A CONTRACTOR IN ACCORDANCE WITH FEDERAL LAW, THE EMPLOYEES OF WHOM ARE PROHIBITED FROM ENGAGING IN THE UNLAWFUL MANUFACTURE, SALE, DISTRIBUTION, DISPENSATION, POSSESSION OR USE OF ANY CONTROLLED SUBSTANCE OR MARIJUANA DURING THE PERFORMANCE OF THE CONTRACT.

EMPLOYMENT DISCRIMINATION BY THE SUCCESSFUL OFFEROR SHALL BE PROHIBITED:

1. DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:
 - a. THE OFFEROR, SHALL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, SEX, NATIONAL ORIGIN, AGE, DISABILITY, OR ANY OTHER BASIS PROHIBITED BY STATE LAW RELATING TO DISCRIMINATION IN EMPLOYMENT, EXCEPT WHERE THERE IS A BONA FIDE OCCUPATIONAL QUALIFICATION REASONABLY NECESSARY TO THE NORMAL OPERATION OF THE CONTRACTOR. THE CONTRACTOR AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES SETTING FORTH THE PROVISIONS OF THIS NONDISCRIMINATION CLAUSE.
 - b. THE CONTRACTOR, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR, SHALL STATE THAT SUCH CONTRACTOR IS AN EQUAL OPPORTUNITY EMPLOYER.
 - c. NOTICES, ADVERTISEMENTS, AND SOLICITATIONS PLACED IN ACCORDANCE WITH FEDERAL LAW, RULE OR REGULATION SHALL BE DEEMED SUFFICIENT FOR THE PURPOSE OF MEETING THE REQUIREMENTS OF THIS SECTION.
2. THE CONTRACTOR WILL INCLUDE THE PROVISIONS OF THE FOREGOING PARAGRAPHS A, B, AND C IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER \$10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

Name and Address of OFFEROR:

Date: _____ Authorized Signature _____

Printed Name: _____ Title: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

Federal Tax Identification Number/Social Security Number: _____

SWaM Certificate Number _____ **Expiration Date** _____

Is Offeror a "minority" business? ☐ Yes ☐ No

☐ African American ☐ Hispanic American

If yes, please indicate the "minority" classification below:

☐ American Indian ☐ Eskimo ☐ Asian American ☐ Aleut ☐ Other; Please

Explain:

Is Offeror Woman Owned? ☐ Yes ☐ No

Is Offeror a Small Business? ☐ Yes ☐ No

Is Offeror a Faith-Based Organization? ☐ Yes ☐ No

I. PURPOSE

The purpose of this RFP is to solicit sealed proposals from qualified offerors to provide HCS with a packaged software product (or products) to fulfill the Benefits Administration and Enrollment functional requirements of the School Administration Center. In-scope organizations and related functionality includes:

- Human Resources, including –
 - Personnel Administration
 - Benefits Eligibility, Enrollment, and Administration
- Business & Finance, including -
 - Payroll
 - Accounts Payable
 - Management Reporting

II. BACKGROUND

Hampton, Virginia

Hampton is an independent city located in Virginia. It is on the southern end of the Virginia Peninsula, bordering the Chesapeake Bay. The City has a total area of 136.2 miles; 51.8 miles of it is land and 84.4 miles of it is water, with a total population of 137,436.

The City boasts a strong military and technology presence. Langley Air Force Base is home of the First Fighter Wing. NASA Langley Research Center, where America's first astronauts were trained, is now a major center for aviation research. Large employers include companies such as Alcoa Howmet, Craft Machine Works, Measurement Specialists, Inc., Sprint, and Verizon Communications. The City is also home to multiple medical facilities including Riverside Regional Medical Center, Sentara Healthcare, and the Hampton Veteran's Administration Medical Center. Hampton offers multiple higher education opportunities including Hampton University, Thomas Nelson Community College, Old Dominion University's Peninsula Higher Education Center, and the National Institute of Aerospace. More information about business opportunities and growth in Hampton can be found in the Hampton Community Profile, which may be accessed via the following link: <http://www.hampton.gov/498/Community-Profile>

The City is served by two airports. The primary airport for the Hampton Roads area is Norfolk International Airport, on the opposite side of Hampton Roads in Norfolk. The region's secondary airport, Newport News/Williamsburg International Airport, is located on the Virginia Peninsula in Newport News.

Hampton is part of a dynamic metropolitan region. Besides Hampton, the region contains four other cities with populations greater than 100,000. Hampton Roads now has a population of more than 1.7 million and is the 37th largest MSA in the nation. Its effective buying power (EBI) according to Sales, Marketing and Management is more than \$20.8 billion.

Demographically, Hampton is in many ways typical of metropolitan America. Within its boundaries it contains an urban core, a ring of older, settled neighborhoods and newer suburban development. Its citizens' age, educational, occupational and socio-economic characteristics by and large reflect the typical American demographic profile. The City's demographic data may be accessed by the hyperlink: <http://hampton.gov/90/Demographics>.

Hampton City Schools

Based on the Commonwealth of Virginia Department of Education's (DOE) 2016-2017 Fall Membership Report, Hampton City Schools (HCS) is the thirteenth largest school division in the Commonwealth with approximately 20,286 students. HCS is an urban school system educating children in 19 Elementary K-5 (includes 1 magnet, 2 fundamental schools and 1 school for the arts), 5 Middle Schools (includes 1 fundamental school and 1 magnet school), 2 PK-8 Schools, 4 High Schools, 1 Gifted Center and 1 Early Childhood Center. A listing of HCS and its locations may be accessed via HCS' official web site at <http://www.hampton.k12.va.us>.

In its offer, Offeror must provide a firm-fixed price for each item listed below. Offerors may provide descriptive literature, as described in the Descriptive Literature paragraph of this solicitation and include, not only, a record of Offeror's experience in providing comparable services, but also states Offeror's acknowledgement that the product and services offered will be in accordance with the provisions of the RFP. HCS reserves the right to split the award of this RFP should it be determined by HCS, in its sole discretion, to be in the HCS' best interest as outlined herein.

HCS has been operating on the *K12 Enterprise* software product since 2016.

With these factors in mind, HCS established the following goals for the software replacement initiative:

Implement a system that will:

1. Allow HCS to meet all Virginia DOE and Federal reporting requirements, and respond to changes to those requirements in a timely, cost-effective manner
2. Provide a closer degree of "fit" to the HCS functional needs
3. Be less costly to acquire and implement, in terms of licensing fees and implementation services
4. Be less costly to maintain, in terms of future upgrades and the services required to implement them
5. Provide tools that enhance the leadership team's ability to extract and format information in a more flexible and less complex manner

In its offer, the Offeror must provide a price for each item listed, as specified in Attachment A, along with a record of Offeror's experience in providing comparable services. Offer must also state Offeror's acknowledgement that the product and services offered will be in accordance with the provisions of the RFP. HCS reserves the right to split the award of this RFP should it be determined by HCS, in its sole discretion, to be in the HCS' best interest.

Offerors are encouraged to exercise creativity in the proposed solution.

III. SCOPE OF WORK

1. General Requirements:

HCS is seeking proposals for an enterprise-wide software solution, as described in Section I, Purpose. The planned procurement will include:

1. Perpetual, limited software licenses for on-premise and/or vendor-hosted operation of all software products

2. Implementation consulting services, to include project management, software installation, data conversion, and initial configuration services
3. Comprehensive user training
4. Comprehensive technical training for the HCS Information Technology support staff
5. Software development and/or modification services
6. Annual software support services

2. Specific Requirements:

1. HCS requires that the Contractor follow certain business practices in order to successfully compete for this contract:
 - 1.1.1. Contractor shall perform services to the highest standards in the packaged software and software development industries.
 - 1.1.2. Specific responses to the HCS Functional Requirements and the Offer response format are included in Appendices A and B.
 - 1.1.3. HCS has defined the following timeline for selection and implementation:

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|---|--|
| 1.1.3.1. RFP Publication: | November 21, 2017 |
| 1.1.3.2. Question Submittal: | December 7, 2017 |
| 1.1.3.3. Proposal Submittal: | December 19, 2017 |
| 1.1.3.4. Completion of Vendor Selection & Negotiation: | January 19, 2018; subject to change |
| 1.1.3.5. Full implementation Completion: | June 30, 2018 |

3. Special Definitions:

Issuing Office:

Wherever used in this Invitation to Bid, Issuing Office will be:

Erika Allen, VCO, VCA, Senior Buyer
 Consolidated Procurement Division
 Community, Municipal Services/Education
 1 Franklin Street, Suite 345
 Hampton, VA 23669
 Phone: (757) 727-2200
 Fax: (757) 727-2207
 Email: erika.allen@hampton.gov

School Board of the City of Hampton Contract Administrator:

Wherever used in this Invitation to Bid and for purposes of any notices under this contract, HCS Contract Administrator will be:

Robbin Ruth, Executive Director of Human Resources
 Hampton City Schools
 1 Franklin Street
 Hampton, VA 23669

IV. INSTRUCTIONS TO THE OFFEROR

4. Contact with City/HCS Staff, Representatives, and/or Agents:

Direct contact with HCS staff, representatives, and/or agents other than Consolidated Procurement Division staff on the subject of this RFP or any subject related to this RFP is expressly prohibited except with the prior knowledge and permission of the Purchasing Agent or designated representative.

5. Pre-Proposal Conference:

N/A

6. Questions:

Offerors must submit questions regarding the Request for Proposal in writing to the Issuing Office at erika.allen@hampton.gov **no later than 4:30 PM EST December 7, 2017**. Necessary replies will be issued to all Offerors of record as addenda that shall become part of the contract documents. Oral instructions do not form a part of the Proposal documents. Offeror is responsible for checking the <http://www.hampton/bids-contracts> web site or contacting the Issuing Office within 48 hours prior to Proposal closing to secure any addenda issued for this RFP.

7. Changes or Modifications:

Changes or modifications to this Request for Proposals made prior to the date and time of closing will be addressed by addenda from the Issuing Office. Offerors are to acknowledge receipt of addenda in the space provided on the cover page of this Request for Proposal. Oral communications are not a part of the Proposal documents. This RFP and any addenda shall be incorporated, by reference, into any resulting contract.

8. RFP Closing:

Offeror shall ensure its Proposal is time stamped by the Issuing Office no later than the Closing Date and Time shown on the cover page of this Information for Proposal. Proposals received after the specified date and time (time stamped 4:01 P.M. or later) will not be considered and will be returned to the Offeror unopened.

J. Proposal Submittal Requirements:

1. Each Proposal submission shall be submitted to the Issuing Office and shall include the following documents:
 - a. The cover page of this Request for Proposal, which will contain:
 1. Original signature of an agent authorized to bind the company;
 2. Requested contact information;
 3. Company FEI/FIN number; and,
 4. Acknowledgment of any addenda on page one (1);
 - b. Pricing Schedule-Attachment A
 - c. Responses to the Functional Requirements listed in Appendix A
 - d. Responses to the Questions listed in Appendix A, Appendix B and Appendix C
 - e. Completed and signed anti-collusion/nondiscrimination clauses on page 2;

2. Offerors are encouraged to submit their Proposals on recycled paper and to use single-sided copying.
3. Proposals must be submitted utilizing the following requirements:
 - a. Offerors shall submit proposals in a sealed envelope or package, and label the envelope or package with the Request for Proposal's item number and the name and address of the Offeror. **Proposals received by telephone, telegraph, facsimile, or any other means of electronic transfer shall not be accepted.**
 - b. Submit the original and five (5) copies of the proposal. Also, submit an electronic copy (CD or flash) in Microsoft *Word*.
 - c. All proposals shall be received and time stamped in the Issuing Office no later than the Closing Date and Time shown on the cover page of this Request for Proposal. Any proposal received after the specified date and time (4:01 PM EST or later) will not be considered and will be returned to the Offeror unopened.
 - d. Proposals must include all elements noted in the "Preparation of Proposals" section below.
 - e. Include a statement setting forth the basis for protection of proprietary information, if any, as detailed in the "Proprietary Information/Disclosure" section.
 - f. Proposals are to be organized as shown in Paragraph J.4.
4. Preparation of Proposals. Proposals must be organized as follows:
 - a. **HCS Cover Sheet**
 - b. **HCS Anti-Collusion Statement**
 - c. **Minority & Women-Owned Programs (Attachment C)**
 - d. **Section 1: Capability and skill** - Describe the qualifications and skills of the organization to provide the services. Said description should provide, but not be limited to, the following information:
 1. Background information about the organization, e.g., philosophy, ownership, size, facilities and locations, etc.
 2. Offeror's management structure of the firm -- e.g. organization chart of the firm, project team, etc.
 3. Size and location of the office that will serve HCS;
 4. Offeror's qualifications to perform the services, including all resources available to Offeror for the performance of the contract.
 5. Qualifications and resumes of the design team and other employees who will be managing and performing the services under this contract. Projects of individual team members may be submitted.
 6. Name, title, address, e-mail address, phone and fax numbers, and work hours of the Offeror's Contract Representative for the following functions:
 7. Contact for prompt contract administration upon award of the contract;
 8. Contact during the period of evaluation;
 9. Authorized agent to accept any notices provided for in this contract.
 10. Indicate the type of organization you represent, i.e. individual, partnership or corporation. If the Offeror is a corporation, list the names of the President, Vice-President, Secretary,

Treasurer and all principals. If the Offeror is a partnership, include the names of all principals or partners.

11. A detailed history of all mergers or acquisitions.
 12. A copy of the certificate verifying the firm is registered to do business in the Commonwealth of Virginia.
 13. A detailed list of contractor licenses held, including license class and number. Offeror's current financial condition. Provide supporting documentation and audited annual reports for the past three (3) years. If company is privately held, supply sufficient information to document the company's financial status and capability to perform under this contract. Include any financial ratings held by the firm.
 14. If Offeror intends to subcontract any part of the work under this contract, indicate services to be subcontracted and subcontractor(s) to provide said services.
- e. **Section 2: Experience** - Provide a concise description of all work experiences as they relate to the scope of work outlined herein. Said description should include, but not be limited to:
1. Offeror's established experience record in providing comparable services to organizations similar to Hampton City Schools.
 2. Number and types of customers the Offeror has served with comparable services.
 3. Number of years Offeror has been providing these types of services.
 4. A **minimum of five (5) references** for which Offeror has completed services comparable to those described in this RFP. Include at least three (3) references for work performed in an environment comparable to HCS': serving **at least 20,000 students and employing at least 3,000 employees**. For each reference, detail:
 - i. Organization Name;
 - ii. Organization Address;
 - iii. Name, title, address, e-mail address, and phone and fax number of a contact for the organization;
 - iv. Number of years Offeror has served the organization; and
 - v. Brief summary of scope of services provided.
 5. Information detailing projects of similar scope Offeror is currently engaged in, including:
 - i. Organization Name;
 - ii. Organization Address;
 - iii. Name, title, address, e-mail address, and phone and fax number of a contact for the firm;
 - iv. Number of years Offeror has served the firm; and
 - v. Brief summary of scope of services being provided.
 6. Other available documentation to verify Offeror's experience.
 7. A statement detailing why the Offeror is the best candidate to provide HCS with the services requested in this RFP.
- c. **Section 3: Services to be provided** - Provide a detailed description of the services to be provided under this contract. Said description is to address, at a minimum:
1. An introduction - An overview of Offeror's understanding of the scope of work and services to be provided.
 2. Best practice approaches to providing services to HCS that enhance efficiency and effectiveness. Innovative solutions will be considered by HCS.

3. A detail of any assistance, equipment, or other items the Offeror will require HCS to furnish under this contract.
 4. A statement explaining why the Offeror's proposed solution would be the most advantageous to HCS.
 5. Describe the one attribute that places the Offeror ahead of the competition
- d. **Section 4: Price** – provide price information as shown in Attachment A. Include additional information as required. If alternative solutions are proposed, ensure that the pricing is clear. Prices will be negotiated with selected Offerors. Once a contract is awarded, the negotiated price will be considered a firm, fixed price for all software and services.
 - e. **Section 5: Exceptions** – Any objections to specified Terms or Scope of Work should be noted in this section. For each exception, specify the RFP page number, section number, and the exception taken. Offeror must not incorporate its standard contract document into its proposal, by reference or in full text, without listing each exception it represents to the terms and conditions of this RFP, as described in the Exceptions/Alternatives section of this RFP.
 - f. **Section 6: Proposed alternatives to HCS requirements.** Alternative approaches will be considered.
 - g. **Section 7: Responses to each of the Functional Requirements, listed in Appendix A.**
Responses are required for each listed functional requirement, in accordance with the following convention –
 - If the proposed product fully meets the listed requirement, place a “1” in the “YES” column
 - If the proposed product cannot be modified, either for technical or economic reasons, to meet the listed requirement, place a “1” in the “NO” column
 - If the proposed product can be modified for meet the listed requirement, place a “1” in the “MOD” column and insert a proposed cost for the proposed modification in the “MOD COST” column
 - If the Offeror's response needs an explanation or comment, place a cross-reference number in the “NOTE” column. Insert a page for notes at the end of Section 7.
 - h. **Section 8: Appropriate responses to each of the Questions listed in Appendix B.**
 - i. **Section 9: Appropriate responses to each of the Questions listed in Appendix C.**

9. Evaluation of Proposals:

1. After the proposal opening, HCS will select for further consideration two or more Offerors deemed to be fully qualified and best suited among those submitting proposals based on Offerors' responses to the information requested in this RFP. Those Offerors will be invited to demonstrate the proposed solution to the HCS team at the Schools Administrative Center, located at 100 Franklin Street, Hampton, Virginia.
2. The following criteria will be used in the evaluation process:
 - The degree of functional match to the HCS Requirements (20 points)
 - Offeror's experience in providing the services requested; (20 points)

- Offeror's capability and skills to perform the services required; (20 points)
 - Services to be provided by the Offeror; (10 points)
 - The Offeror's Small / Women-owned Program; (5 points)
 - Price (15 points)
 - Ability to meet the HCS timeline (10 points)
3. Exceptions/Alternatives will also be considered. As stated previously, Offerors are encouraged to exercise creativity in the proposed solution. While HCS prefers a single, integrated solution, HCS will be receptive to standalone solutions for certain functional needs. A key characteristic of a proposed "Best-of-Breed" strategy is a verifiable track record of success in a K12 environment. Contributing to that success will be a proven strategy for the integration of the standalone components.
 4. Based on the initial evaluation, HCS may request the selected Offerors to make oral presentations. Thereafter, HCS will conduct negotiations with each of the selected short-listed Offerors. Individuals representing the Offeror during negotiations shall have the authority to negotiate and contractually bind the company to a contract.
 5. After negotiations are completed, HCS will select the Offeror who, in HCS opinion, has made the best proposal and shall award the contract to that Offeror (referred to in this RFP as the Contractor). Should HCS determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.
 6. HCS reserves the right to determine, at its sole discretion, that none of the proposed solutions are suitable and cancel the intended acquisition.
 7. HCS is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous.

10. Presentation/Demonstration:

If in HCS's opinion, vendor presentations or demonstrations of the Offeror's proposed system's features and capabilities are warranted, HCS will notify the appropriate vendors. Such presentation or demonstration will be at a HCS site at a date and time mutually agreed to between HCS and Offeror and will be at the Offeror's expense.

11. Cost of Responding:

This solicitation does not commit HCS to pay any costs incurred by the Offeror or any other party in the preparation and/or submission of proposals or in making necessary studies or designs for the preparation thereof, nor is HCS obligated to procure or contract for such services.

V. GENERAL TERMS AND CONDITIONS

1. Contract Document:

This RFP, its addenda, Contractor's proposal, any additional information requested, and negotiated changes and will constitute the final contract hereafter referred to as this "contract". These documents will be incorporated by reference into HCS purchase order awarding this contract. This contract shall be governed by the contract documents in the following order of precedence:

- This RFP document;
- Any negotiated changes to the foregoing documents; and
- Offeror's proposal

2. Proposal Binding For One-hundred Twenty (120) Days:

Offeror agrees that its Proposal shall be binding and may not be withdrawn for a period of one-hundred (120) calendar days after the scheduled closing date of this Request for Proposals.

3. Proprietary Information/Non-Disclosure:

Offeror is advised that the Virginia Public Procurement Act (Section 2.2-4342, Code of Virginia, 1950 as amended) shall govern public inspection of all records submitted by Offeror. Specifically, if Offeror seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342, Offeror shall:

- a. Invoke the protections of this section prior to or upon submission of the data or other materials,
- b. Provide a statement that identifies the data or other materials to be protected and that states the reasons why protection is necessary.
- c. Submit trade secrets or other proprietary information under separate cover in a sealed envelope clearly marked "**PROPRIETARY**".
- d. Information submitted that does not meet the above requirements will be considered public information in accordance with State statutes.
- e. HCS reserves the right to submit such information to HCS attorney for concurrence of the Offeror's claim that it is in fact proprietary.
- f. References to the proprietary information may be made within the body of the Proposal; however, all information contained within the body of the Proposal shall be public information in accordance with State statutes.
- g. Trade secrets or proprietary information submitted by an Offeror in conjunction with this RFP is not subject to public disclosure under the Virginia Freedom of Information Act (VFOIA).
- h. Information submitted that does not meet the above requirements will be considered public information in accordance with the VFOIA.
- i. An all-inclusive statement that the entire Proposal is proprietary is unacceptable. A statement that Offeror's costs and/or Proposal pricing are to be protected is unacceptable. Offeror will be requested to remove any such statement(s) in order to be eligible for further consideration.

4. Contract Modification(s):

After award, any and all modifications to this contract shall be mutually agreed to by both parties, in writing, and authorized by HCS Purchasing Agent or his designee via issuance of a change order (purchase order).

5. Offeror Obligation:

Offeror shall carefully examine the contents of this Request for Proposals and any subsequent addenda. Failure to do so shall not relieve the Contractor of its obligation to fulfill the requirements of any contract awarded as a result of this RFP.

6. Conditions of Work:

Offeror shall inform itself fully of the conditions relating to services required herein. Failure to do so will not relieve a Contractor of the obligation to furnish all goods and/or services necessary to carry out the provisions of this contract

7. Prime Contractor:

If in its performance of this contract, Contractor supplies goods or services by or through another party or subcontractor, Contractor agrees that:

1. Contractor shall act as the prime contractor for the goods and services to be provided under contract and shall be the sole point of contact with regard to all obligations under this contract.
2. Contractor represents and warrants that Contractor has made third parties or subcontractors aware of the proposed use and disposition of the other party's products or services, and that such other party has agreed in writing that it has no objection and that HCS is not liable to such third parties or subcontractors for any work performed under this contract.
3. The use of subcontractors and the work they perform must receive the prior written approval of HCS. HCS will designate a Contract Administrator to approve such work.
4. Contractor shall be solely responsible for all work performed and materials provided by subcontractors.
5. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor under this contract.
6. To obtain payment for work performed under this Agreement, if the Contractor is an individual, the individual Contractor shall provide his social security number. If the Contractor is a proprietorship, partnership, or corporation, the Contractor shall provide its federal employer identification number.

8. Subcontractors:

Contractor's use of subcontractors and the work they are to perform must receive written approval from the Contract Administrator at least ten (10) calendar days prior to the work being performed. Contractor shall be solely responsible for all work performed and materials provided by subcontractors. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor.

1. Payments to Subcontractors:

In accordance with Title 2.2, Chapter 43, Article 4 of the Code of Virginia (Virginia Public Procurement Act), Contractor shall make payment to all subcontractors, as defined in the Code, within seven (7) days after receipt of payment from the HCS; or, shall notify the HCS and subcontractors in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment. In the event payment is not made as noted, Contractor shall pay interest at the rate of one (1) percent per month, unless otherwise provided in the Agreement, to the subcontractors on all amounts that remain unpaid after seven (7) days except for the amounts withheld as provided herein.

These same requirements shall be included in each subcontract and shall be applicable to each lower-tier subcontractor.

Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the HSC. An Agreement modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

9. Non-Assignment:

Contractor shall not assign its rights and duties under this Agreement without the prior written consent of HCS Contract Administrator.

10. Antitrust:

Any perceived anti-trust violation will be reported to the State Attorney General for possible enforcement of anti-trust laws.

11. Anti-collision/Nondiscrimination Requirements Form:

The attached "Anti-collision/Nondiscrimination Requirements" form, on page 2 of this RFP, shall be executed by Offeror and is to be submitted with Offeror's Proposal. The requirements set forth on said form shall be considered to be binding terms and conditions in any contract resulting from this RFP. A contract will not be awarded to an Offeror who has not signed the anti-collision/nondiscrimination statement.

12. Hold Harmless/Indemnification:

It is understood and agreed that Contractor hereby assumes the entire responsibility and liability for any and all material damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor, its subcontractors, agents or employees under or in connection with this Contract or the performance or failure to perform any work required by this Contract. Contractor agrees to indemnify and hold harmless HCS and its agents, volunteers, servants, employees and officials from and against any and all claims, losses, or expenses, including reasonable attorney's fees and litigation expenses suffered by any indemnified party or entity as the result of claims or suits due to, arising out of or in connection with (a) any and all such damages, real or alleged, (b) the violation of any law applicable to this Contract, and (c) the performance of the work by Contractor or those for whom Contractor is legally liable. Upon written demand by HCS, Contractor shall assume and defend at Contractor's sole expense any and all such suits or defense of claims made against HCS, its agents, volunteers, servants, employees or officials.

13. Notices:

All notices, requests, demands, and elections under this contract, other than routine operational communications, shall be in writing and shall be deemed to have been duly given on the date when hand-delivered, or on the date of the confirmed facsimile transmission, or on the date received when delivered by courier that has a reliable system for tracking delivery, or six (6) HCSbusiness days after the date of mailing when mailed by United States mail, certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the following individuals:

- To HCS Contract Administrator as designated in this RFP.
- To Contractor: Contractor's Contract Administrator as defined in Contractor's Proposal.

Either party may from time to time change the individual(s) to receive notices and/or its address for notification purposes by giving the other party written notice as provided above.

14. Non-Performance:

1. Delivery Delays: HCS reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Contractor fails to deliver such goods and/or service deliverables in accordance with delivery dates and time frames set forth in this contract.
2. Unacceptable Deliveries (Rejections): Upon notification by HCS that goods and/or service deliverables provided by the Contractor under this contract are damaged and/or not of the quality specified by HCS, such goods and/or service deliverables will be rejected. Contractor shall replace such rejected goods and/or service deliverables immediately or within a reasonable time as determined by HCS.
3. Contractor shall remove all rejected materials, equipment or supplies from the premises of HCS within ten (10) days of notification. Rejected goods and/or service deliverables not removed from HCS's premises within ten (10) days will be regarded as abandoned, shall become the property of HCS, and HCS shall have the right to dispose of such items.
4. HCS reserves the right to authorize immediate purchase from other sources against rejections.
5. Liability: Contractor shall be liable to HCS for all costs incurred by HCS as a result of Contractor's failure to perform in accordance with the contract. Contractor's liability shall include, but not be limited to:
 - a. Damages and other delay costs, to include costs to procure goods/services from alternate suppliers.
 - b. Increased costs of performance, such as extended overhead and increased performance costs resulting from performance delays caused by Contractor and/or rejections of Contractor's goods and/or service deliverables.
 - c. Warranty and rework costs, liability to third party, excess costs, attorney's fees and related costs incurred by HCS due to non-responsive performance of Contractor.

15. Termination Without Cause:

HCS may at any time, and for any reason, terminate this Contract by written notice to Contractor specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed. Notice shall be given to Contractor by certified mail/return receipt requested, addressed to the Contractor's Contract Administrator. In the event of such termination, Contractor shall be paid such amount as shall compensate Contractor for the work satisfactorily completed, and accepted by HCS, at the time of termination. In the event HCS terminates this Contract, Contractor shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to HCS any work completed or in process for which payment has been made.

16. Termination With Cause/Breach:

In the event that Contractor shall for any reason or through any cause be in default of the terms of this Contract, HCS may give Contractor written notice of such default by certified mail/return receipt requested at the address set forth in Contractor's Bid Proposal or in Paragraph I of this Contract. Unless otherwise provided, Contractor shall have ten (10) days from the date such notice is mailed in which to cure the default. Upon failure of Contractor to cure the default, HCS may immediately cancel and terminate this Contract as of the mailing date of the default notice. Upon termination, Contractor shall withdraw its personnel and equipment, cease performance of any further work under the Contract, and turn over to HCS any work in process for which payment has been made.

In the event of violations of law, safety or health standards and regulations, this Contract may be immediately cancelled and terminated by HCS and provisions herein with respect to opportunity to cure default shall not be applicable. This contract may be terminated by either party in the event that the other party has failed to perform a material obligation or has otherwise breached a material term of this contract, if that other party has failed to cure that failure or breach within ten (10) days after receipt of written notice thereof from the other party.

17. Breach of Contract:

Contractor shall be deemed in breach of this contract if the Contractor:

Fails to comply with any terms of this contract;

Fails to cure such noncompliance within ten (10) calendar days from the date of HCS's written notice or such other time frame, greater than ten (10) calendar days, specified by HCS Contract Administrator in the notice.

Fails to submit a written response to HCS's notification of noncompliance within ten (10) calendar days after the date of HCS notice.

All notices under this contract shall be submitted, either by fax or certified mail, return-receipt requested, to the respective contract administrator. Contractor shall not be in breach of this contract as long as its default was due to causes beyond the reasonable control of and occurred without any fault or negligence on the part of both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of HCS in its sovereign capacity, fires, floods, epidemics, strikes, freight embargoes, and unusually severe catastrophic weather such as hurricanes.

18. Applicable Law:

This Contract shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Contract shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

19. Compliance With All Laws:

Contractor shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of this contract. Contractor represents that it possesses all necessary licenses and permits required to conduct its business and/or will acquire any additional licenses and permits necessary for performance of this contract prior to the initiation of work. If the Contractor is a corporation, Contractor further expressly represents that it is a corporation of good standing in the Commonwealth of Virginia and will remain in good standing throughout the term of the contract and any extensions. All City of Hampton business license, personal property, real estate and other applicable tax requirements shall be met by Contractor.

20. Immigration Reform and Control Act of 1986

Contractor/Vendor does not and shall not during the performance of the Contract knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

21. Venue:

Venue shall be in the Circuit Court of City of Hampton, Virginia, and the United States District Court for the Eastern District of Virginia, Norfolk Division, compliant with applicable laws and regulations, as deemed appropriate by City of Hampton.

22. Severability:

If any provision of this contract is found by any court of competent jurisdiction to be invalid or unenforceable, the invalidity of such provision shall not affect the other provisions of this contract, and all other provisions of this contract shall remain in full force and effect.

23. Non-Appropriation of Funds:

It is understood and agreed between the parties herein that HCS shall be bound hereunder only to the extent that the funds shall have been appropriated. In the event no funds or insufficient funds are appropriated, HCS shall immediately notify the Contractor of such occurrence and this Contract shall terminate on the last day funds are available without penalty or expense to HCS of any kind whatsoever.

24. Tax Exemption:

HCS is exempt from federal excise tax and from all State and local taxes. Contractor shall not include such taxes in any invoices under this agreement. Upon request, HCS will furnish the Contractor with tax exemption certificates or HCS tax exempt number.

25. Vendor's Invoices:

Contractor shall submit to HCS all invoices promptly upon completion of the requirements for installation, delivery, and acceptance of the Products and Services required under this contract. Invoices shall not include any costs other than those identified in the executed City purchase order awarding this contract or any subsequent change orders issued by the Consolidated Purchasing Division. All shipping costs are the Contractor's responsibility, except to the extent such charges are identified in the executed City purchase order or change orders. Contractor's invoices shall provide at a minimum:

- a. Type and description of the Product or Service installed, delivered and accepted;
- b. Serial numbers, if any;
- c. Quantity delivered;
- d. Charge for each item;
- e. Extended total (unit costs x quantity);
- f. This RFP number and HCS Purchase Order Number.

26. Contractual Disputes:

Any dispute concerning a question of fact as a result of a contract with HCS which is not disposed of by agreement shall be decided by HCS Purchasing Agent or designee, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within thirty (30) days. The decision of HCS Purchasing Agent or designee shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within

the time specified. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

27. Warranty/Guarantee:

Contractor guarantees against defective or faulty material or workmanship for at least one (1) year or for the manufacturer's standard warranty period, whichever is greater, from date of acceptance by HCS. To furnish adequate protection from damage for all work and to repair damages of any kind for which Contractor or Contractor's workmen are responsible, to the building or equipment, to Contractor's own work, or to the work of others. Any merchandise or service provided under the contract which is or becomes defective during the warranty period shall be replaced by the Contractor free of charge with the specific understanding that all replacements shall carry the same guarantee as the original equipment or service (one year or manufacturer's standard warranty period, whichever is greater, from the date of acceptance of the replacement). Contractor shall make any such replacement immediately upon receiving notice from HCS.

28. Payment Terms:

To be eligible for payment, all labor, equipment and materials covered under Contractor's invoice must be completed and accepted by HCS. HCS agrees to make payments under this contract within thirty (30) days after receipt of a correct invoice for such payment. Where payment is made by mail, the date of postmark shall be deemed to be the date of payment. Any amounts due HCS under the terms of this or any other agreement may be applied against Contractor's invoices with documentation for the basis of the adjustment attached. In no event shall any interest penalty or late fee accrue when payment is delayed because of disagreement between HCS and Contractor regarding the quantity, quality, time of delivery, or other noncompliance with the contract requirements for any Product or Service or the accuracy or correctness of any invoice. Payment terms offering a "prompt payment discount" of 20 days or greater will be considered in the evaluation of Proposals. All other payment terms shall be net thirty (30) calendar days or greater. Payment terms not specified by Offeror shall be Net 45 days.

Special Educational or Promotional Discounts

Contractor shall extend any special educational or promotional sale prices or discounts immediately to HCS during the term of the contract. Such notice shall also advise the duration of the specific sale or discount price.

29. Audits:

HCS shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Contract (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Contractor, including, but not limited to those kept by Contractor, its employees, agents, assigns, successors and subcontractors. Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Contract and for at least three years following the completion of

this Contract, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to HCS, through its employees, agents, representatives, contractors or other designees, during normal business hours at Contractor's office or place of business in Hampton, Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Hampton, Virginia, which is convenient for HCS. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which HCS may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

30. Notice of Award:

Any contract resulting from this RFP will be publicly posted for inspection in the Consolidated Procurement Division, 1 Franklin Street, Suite 345, Hampton, Virginia.

31. Award:

HCS intends to award a contract to a fully qualified Offeror submitting the best proposal based on the criteria set forth herein and as determined by HCS in its sole discretion. At HCS's sole discretion, HCS may reject any or all proposals in whole or in part if such action is determined to be in HCS's best interest. HCS reserves the right to enter into any contract deemed to be in its best interest, including the award of this contract to more than one contractor.

32. Disposition of Proposals:

All materials submitted in response to this RFP will become the property of HCS. One (1) copy of each proposal will be retained for official files, will become a matter of public record after award of the contract, and will be open to public inspection subject to the *Proprietary Information/Disclosure* section of this RFP.

33. Non-Exclusivity:

HCS reserves the right to procure goods or services covered under this contract from a third party when, in HCS's sole discretion; it is deemed to be in HCS's best interest.

VI. SPECIAL TERMS AND CONDITIONS

1. Contract Term:

The contract term shall be for one (1) year.

2. Contract Extension:

This contract may be extended upon mutual agreement of both parties for four (4) additional, one-year periods, upon the same prices, terms, conditions set forth in the negotiated contract resulting from this RFP.

3. Time is of the Essence:

Time is of the essence in this Contract. Contractor expressly acknowledges that in the performance of its obligations, HCS is relying on timely performance and will schedule operations and incur obligations to third parties in reliance upon timely performance by Contractor and may sustain substantial losses by reason of untimely performance.

4. Bonding:

Surety, Performance, Maintenance, and Contract bonds are not required for this contract.

5. Insurance:

Contractor shall submit to HCS Contract Administrator Certificates of Insurance, prior to beginning work under this contract and no later than ten (10) days after award of the contract.

All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to HCS, and shall carry the provision that the insurance will not be cancelled or materially modified without thirty days (30) prior written notice to HCS.

The certificates of insurance shall list the School Board of HCS of Hampton, 1 Franklin Street, Suite 345, Hampton, Virginia 23669, as the additional insured for the specified project as outlined in this RFP.

Insurance shall be maintained during the entire term of the contract and any extensions and shall be of the following forms and limits:

| <u>Forms</u> | <u>Limits</u> |
|---|-----------------------------------|
| Workers' Compensation | Statutory |
| Automobile Liability | \$1,000,000 Combined Single Limit |
| Commercial General Liability, including Contractual Liability and Products and Completed Operations Coverage | \$1,000,000 Combined Single Limit |
| Umbrella/Excess Liability | \$2,000,000 |

The establishment of minimum limits of insurance by the School Board of HCS of Hampton does not reduce or limit the liability or responsibilities of the Contractor.

The establishment of minimum limits of insurance by the HCS does not reduce or limit the liability or responsibilities of the Contractor.

The endorsement would be that which is attached to the policy that acknowledges the HCS as an also insured on all policies we have required to be endorsed.

This will be either a direct endorsement that actually names the HCS or a blanket endorsement that contract states that the HCS will be named as an also insured on the insurance policy.

Contractor shall provide the HCS with its social security number or federal taxpayer identification number prior to receiving any payments for services under this Contract.

6. Unauthorized Disclosure of Information:

Contractor shall assume the entire responsibility and liability for any and all damages caused by or resulting from or arising out of the negligent or willful unauthorized disclosure of confidential information on the part of the Contractor, its subcontractors, agents or employees under or in

connection with this contract. The Contractor shall save harmless and indemnify HCS and its agents, volunteers, servants, employees and officers from and against any and all claims, losses or expenses, including but not limited to attorney's fees, which either or both of them may suffer, pay or incur as the result of claims or suits due to, arising out of or in connection with, any and all such unauthorized disclosures, real or alleged. The Contractor shall, upon written demand by HCS, assume and defend, at the Contractor's sole expense, any and all such suits or defense of claims alleging unauthorized disclosures of confidential information.

Any negligent or willful unauthorized disclosure of confidential information on the part of the Contractor, its subcontractors, agents or employees under or in connection with this contract shall constitute a breach of the terms of this contract. HCS may proceed by appropriate court action, including seeking injunctive relief, to prevent continuing unauthorized disclosures, and Contractor shall save harmless and indemnify HCS for court costs, litigation expenses and attorney's fees that it may pay or incur as the result of seeking to prevent or stop any and all unauthorized disclosures of confidential information.

7. Copyright/Patent Indemnity:

Contractor shall pay all royalty and license fees relating to the items covered by this contract. In the event any third party shall claim that the manufacture, use and sales of the goods supplied under this contract constitute an infringement of any copyright, trademark, or patent, the Contractor shall indemnify HCS and hold HCS harmless from any cost, expense, damage or loss incurred in any manner by HCS on account of any such alleged or actual infringement.

8. Cooperative Procurement

Section 2.2-4304 Code of Virginia (VPPA) will apply to this solicitation. Other Public Bodies may utilize any contract(s) issued pursuant to this solicitation by placing its own order(s) directly with the Contractor(s). HCS of Hampton acts only as the issuing agent and is not responsible for placement of orders, payment or discrepancies of other participating Public Bodies.

9. Criminal Background Check Requirements

Contractor certifies that all employees employed in support of this Contract who have direct contact with students, which is defined to mean being in the presence of students during regular school hours of during school-sponsored activities, have not been convicted of (i) a felony; or (ii) any offense involving the sexual molestation, physical or sexual abuse or rape of a child.

10. Foreign and Domestic Businesses-Authority to Transact Business in the Commonwealth

Contractor whether organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity and shall provide proof thereof. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth to be revoked or cancelled at any time during the term of the Agreement. Failure by the Contractor to remain in compliance with the provisions of this section shall be deemed a material breach of this Agreement.

**CITY OF HAMPTON, VIRGINIA and HAMPTON CITY PUBLIC SCHOOLS
INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**

This information is to assist the contractor to understand the insurance requirements of the City of Hampton (City) and Hampton City Public Schools (HCS). Contractors are encouraged to share this information with insurance agents and brokers. **In all cases the RFP or ITB requirements override statements in this document.**

1. **Agreement/Reference.** All evidence of insurance must identify the nature of your business with the CITY/HCS. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your insurance is properly assigned to the correct project. It is important that you **provide the types of coverage and minimum dollar amounts specified in the RFP or ITB document.** Failure to provide the requested amounts may lead to disqualification and increase processing time.

When to submit. Normally no work may begin until the certificate of insurance (COI) with proper endorsement has been received. It is important that the certificate and endorsement be provided as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

2. **Acceptable Evidence and Approval.** Proof of insurance is normally provided on an industry form known as the ACORD Certificate of Insurance. Insurance industry certificates other than the ACORD may be accepted after review. In addition to the ACORD form, an Insured Endorsement naming the CITY or HCS as an additional insured that has been completed by your insurance company or its designee must be attached to the COI. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured and the substantiating endorsement must be attached. Attaching the section of the insurance policy covering contractual additional insureds may be used until the actual endorsement is received.

All evidence of insurance must be authorized for the insurance provider by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter.

3. **Acceptable Alternatives to ACORD Certificates and other Insurance Certificates:**
 - **A copy of the full insurance policy.**
 - **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval.
 - **Self-Insured** contractors or vendors must submit for review to the Risk Manager documentation of its financial ability to self-insure for each coverage required. (See Para 6 below.)

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law
- Professional Liability insurance

4. **Renewal.** Upon renewal of any insurance policy it is the responsibility of the contractor to provide the updated ACORD Certificate of Insurance or other acceptable documentation to the City or HCS. If your policy number changes you must also submit a new Additional Insured Endorsement with an Insurance Industry Certificate.

5. **Cancellation.** The contractor/vendor must inform the City/HCS 30 days before insurance is cancelled or not renewed. The requirement for the insurance company to inform the additional insureds is not enforceable. Failure to inform must be considered a substantive violation of the contract and could result in the contract being cancelled.

6. **Alternative Programs/Self-Insurance.** Risk financing mechanisms such as Risk Retention

Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY Risk Manager has reviewed the relevant documents. Any contractor or vendor that wishes to satisfy insurance requirements as a self-insured party must receive permission from the Risk manager by submitting a request to the Risk Management Department.

7. General Liability. General liability insurance covering your operations (and products, where applicable) is required whenever the CITY or HCS is at risk of:

- **Third-party claims** which may arise out of your work or your presence or special event on city premises.
- **Sexual misconduct claims coverage** is a required coverage when the work performed involves minors.
- **Fire legal liability insurance** is required for persons occupying a portion of CITY or HCS premises.

8. Automobile Liability insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY or HCS premises; it is not required for simple commuting unless CITY or HCS is paying mileage. However, compliance with Virginia law requiring auto liability insurance is a contractual requirement.

9. Errors and Omissions coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

10. Workers' Compensation and Employer's Liability insurance are not required for single-person contractors. However, under state law the minimum coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement that can be obtained from Risk Management.

A Waiver of Subrogation on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

11. Property Insurance is required for persons having exclusive use of premises or equipment owned or controlled by the CITY.

12. Builder's Risk/Course of Construction is insurance coverage that protects the owner's interests in the structure as well as materials, fixtures and/or equipment being used in the construction or renovation of a building or structure should those items sustain physical loss or damage from a covered cause. It is required during construction projects and must include building materials in transit and stored at or away from the project site. This would also include materials purchased by the City for installation or erection by the contractor.

APPENDIX A – FUNCTIONAL REQUIREMENTS AND OFFEROR RESPONSE

| REQUIREMENTS TRACEABILITY MATRIX | | | | | | | |
|----------------------------------|-----|---|------------------|----|-----|----------|------|
| | | BENEFITS | VENDOR RESPONSES | | | | |
| FUNC / APP | NO. | | YES | NO | MOD | MOD COST | NOTE |
| BENE | 1 | The ability to provide a Work Flow management software module in which benefit-related transactions can be initiated by the employee or benefits representatives, automatically routed through multiple levels of approval, and updated within the system | | | | | |
| BENE | 2 | The ability to utilize Responsive Design in order to make the application available on mobile devices running either the <i>iOS</i> or the <i>Android</i> operating systems. | | | | | |
| BENE | 3 | The ability to track changes in status by date, in order to provide visibility of all changes, backwards in time; this would include Start and End dates for the following, and others: | | | | | |
| BENE | 4 | Benefit Enrollment status | | | | | |
| | | The ability to maintain a series of permanent, employee-based notes within the system, including the ability to: | | | | | |
| BENE | 5 | Time-stamp the notes | | | | | |
| BENE | 6 | Identify the originator of the notes | | | | | |
| BENE | 7 | Permanently retain the notes as long as the employee is recorded in the HCS system | | | | | |
| BENE | 8 | Display the notes in reverse chronological order to authorized users, <u>or</u> | | | | | |
| BENE | 9 | <ul style="list-style-type: none"> o If related to a particular maintenance action, within the transaction record | | | | | |
| | | ENROLLMENT PROCESSING | | | | | |
| BENE | 10 | The ability to record and maintain a logically unlimited number of benefit programs in which eligible employees can enroll | | | | | |
| BENE | 11 | During the enrollment or maintenance process, the ability to display the entire range of benefits, only <i>for which that Employee is eligible</i> , in a list for selection | | | | | |
| | | The ability to automatically validate eligibility for specific benefits, based on certain Assignment parameters: | | | | | |
| BENE | 12 | Fulltime/Fulltime Bus Attendant/Job Share/Part-time Leave-Eligible/Part-time | | | | | |
| BENE | 13 | VRS Hybrid versus Plan 1/2 | | | | | |
| BENE | 14 | VRS Hybrid First Year versus Beyond First Year | | | | | |
| | | The ability to determine benefit eligibility dates based on the following business rules: | | | | | |

| | | | | | | | |
|------|----|--|--|--|--|--|--|
| BENE | 15 | If full-time hire Date falls on or between the 1st and 15th of a month, the coverage start date is the first day of the month, following the month of hire | | | | | |
| BENE | 16 | If full-time Hire Date falls on or between the 16th and 31st of a month, the coverage start date is the first day of the second month, following the month of hire | | | | | |
| BENE | 17 | If termination date falls on or between the 1st and 15th of a month, the coverage end date is the last day of the month | | | | | |
| BENE | 18 | If termination Date falls on or between the 16th and 31st of a month, the coverage end date is the last day of the next month | | | | | |
| BENE | 19 | The ability to create and maintain employee and employer contribution amounts (per pay period) for each enrolled benefit, based upon the level or type of coverage provided | | | | | |
| BENE | 20 | The ability to automatically notify the Benefits Administrator when an employee submits a request for a change in his or her qualifying status: i.e., a Life Event, such as marriage, birth of a child, etc. | | | | | |
| BENE | 21 | Ability to process life event changes with an effective date other than the beginning of the month. | | | | | |
| BENE | 22 | Ability to process life event changes for employees who have been terminated, but still have active enrollments. | | | | | |
| BENE | 23 | The ability to compute the related withholding amounts based upon Employment Duration (10-Month; 11-Mo.; 11.5-Mo., 12-Mo.) for optional life insurance. Other core benefits are taken out 20 pay periods over 10-months for all employees. The system should update when an employee experiences a change in their pay frequency for this benefit. | | | | | |
| BENE | 24 | The ability to pass enrollment data and related employee contribution amounts to the payroll application | | | | | |
| BENE | 25 | The ability to compute and display actual HCS subsidy (employer-paid) amounts paid for all benefits at the individual employee level | | | | | |
| BENE | 26 | The ability to require dependent verification ONCE for each individual dependent and have that determination affect all subsequent enrollment changes. Ability to make enrollments pending for children and spouses who have not been verified. | | | | | |
| BENE | 27 | Ability to show only those dependents who are eligible for coverage in the selection list for coverage. This includes spouses and children up to age 26. Fully disabled children over 26 can be covered. A status button should be present for HR to mark. | | | | | |
| BENE | 28 | During enrollment, the ability to limit the Dependents on the enrollment screen to only those Dependents whom the Employee has previously selected; do not display all Dependents. NOTE: Should show currently enrolled dependents, but employee should be able to select other eligible dependents to add for coverage. | | | | | |

| | | | | | | | |
|-----------------------------------|----|--|--|--|--|--|--|
| BENE | 29 | The ability to provide automatic notification to the TPA when a Cobra enrollment or early retirement enrollment occurs. | | | | | |
| OPEN ENROLLMENT PROCESSING | | | | | | | |
| BENE | 30 | The ability to open two (2) or more Benefits Plans describing the same benefit in order to accommodate enrollments into the new plan, while the outgoing plan continues in effect until its end date. | | | | | |
| BENE | 31 | The ability to allow Benefit Counselors log into the (Open) Enrollment system and undertake enrollment changes on behalf of the employee. | | | | | |
| BENE | 32 | The ability to allow temporary Employment Counselors to access and update the system without the need to assign billable software user licenses to those counselors. | | | | | |
| BENE | 33 | If individual, billable licenses are required, prorate the licensing fees based upon the annual license fee and the length of time the temporary licenses are in use. | | | | | |
| BENE | 34 | The ability to require the entry of a Relative Code and DOB in order to make Dependents eligible for enrollment | | | | | |
| BENE | 35 | The ability to prevent Employees from deleting Relatives who still participate in one of the Benefits | | | | | |
| BENE | 36 | The ability to limit the display of premium rates for Well vs. Non-Well medical coverage to only the option for which the individual employee is eligible. | | | | | |
| BENE | 37 | The ability to send enrollments, withdrawals, and changes, with appropriate benefit start and end dates, electronically to all carriers, in accordance with their specific data formats | | | | | |
| BENE | 38 | The ability to establish variable documentation business rules on each Life Event transaction | | | | | |
| BENE | 39 | The ability to establish varying "Plan Years" for all benefits (Currently beginning on October 1st and ending on September 30th) | | | | | |
| BENE | 40 | Ability to make certain benefit changes "pending" | | | | | |
| BENE | 41 | The ability to report on pending enrollments during the open enrollment period. This applies to disability and optional life changes. HR should have | | | | | |
| BENE | 42 | The ability to approve/deny changes and edit effective dates for this coverage. | | | | | |
| BENE | 43 | An employee who enrolls in employee/spouse/child optional life should have all elected options match (i.e., if Option 1 is elected for employee, then option 1 must also be selected for spouse and child if an employee wants that coverage). | | | | | |
| BENE | 44 | The ability to make employee/spouse/child optional life options match if enrolled with the exception of spouse optional like can always be option 1 if an employee has any other option for themselves. | | | | | |
| BENE | 45 | The ability to produce all mandated ACA reports in accordance with federal guidelines. | | | | | |

| | | EMPLOYEE SELF-SERVICE | | | | | |
|------|----|---|--|--|--|--|--|
| | | The ability to provide employees with an effective HR Self-service module which guides the employee through inquiries and Benefit status changes in an easy-to-use, “wizard-like” manner, including the following items: | | | | | |
| BENE | 46 | Display Per-pay-Period withholding amounts and Total YTD withholding amounts for each enrolled benefit | | | | | |
| BENE | 47 | Display Enrollment Date for each Benefit | | | | | |
| BENE | 48 | Display Benefit titles for those Benefits in which the employee is not enrolled with a message stating “NOT ENROLLED” | | | | | |
| BENE | 49 | Display the VRS Retirement Plan(s) in which the employee participates. Employees will not be able to edit enrollments. | | | | | |
| BENE | 50 | Provide the ability for employees to initiate benefit changes online | | | | | |
| BENE | 51 | For benefits requiring document validation, send a confirming email to the employee, stating that the requested change is pending and will be made effective when documentation is provided to the HR Department | | | | | |
| BENE | 52 | For all benefit changes, send an email alert to the Benefits Administrator, informing her of the pending change. Ability to turn this feature out during the annual enrollment period. | | | | | |
| BENE | 53 | Ability to house links for benefits guides and required forms on the self-service screen for employees. | | | | | |
| BENE | 54 | The ability to allow employee to initiate Life Change Events and Employment Events. Workflow to be triggered when the life event is initiated. Includes the ability to establish variable documentation business rules on each Life Event transaction such as the ability to prompt and require an attachment. HR will have to validate the attachment is complete and correct. | | | | | |
| BENE | 55 | For the Benefits Administrator, the ability to delete erroneous enrollment and benefit changes | | | | | |
| | | The ability to generate benefit enrollment reports, listing: | | | | | |
| BENE | 56 | All employees enrolled in a specific benefit, with their withholding amounts | | | | | |
| BENE | 57 | All employees within a specific category or classification, enrolled in a specific benefit, with their withholding amounts | | | | | |
| BENE | 58 | All employees within a specific benefit and their covered family members, including SSN, DOB, and verification status of selected family members. | | | | | |
| | | The ability to produce an annual, individualized Total Compensation Statement, listing all Benefits provided to the employee, including: | | | | | |
| BENE | 59 | Current Salary and Supplements for salaried personnel, <u>and</u> | | | | | |

| | | | | | | | |
|---|----|--|--|--|--|--|--|
| BENE | 60 | Current Wages and Supplements for hourly personnel | | | | | |
| BENE | 61 | Accrued Vacation Leave balance, as of the reporting date | | | | | |
| BENE | 62 | Vacation days used during the year and associated value, based on the employee's salary or hourly wage | | | | | |
| BENE | 63 | Accrued Sick Leave balance, as of the reporting date | | | | | |
| BENE | 64 | Sick days used during the year and associated value, based on the employee's salary or hourly wage | | | | | |
| BENE | 65 | Accrued Personal Leave balance, as of the reporting date | | | | | |
| BENE | 66 | Personal Leave days used during the year and associated value, based on the employee's salary or hourly wage | | | | | |
| BENE | 67 | The total dollar amounts paid by HCS to subsidize the expense associated with <u>each</u> purchased or premium-based Benefit | | | | | |
| BENE | 68 | The ability to maintain a voluntary "Sick Leave Bank" to which employees can donate sick leave hours | | | | | |
| BENE | 69 | The ability to track an employee's use of Sick Leave Bank hours, in accordance with HCS policy | | | | | |
| BENE | 70 | Upon employee termination at the end of their contracted period (varying days in June), the ability to notify providers that benefits for the terminated employee remain in effect until September 30th, even when the official termination of the employee occurs over the summer. Other term rules listed above. | | | | | |
| THIRD-PARTY INTERFACES | | | | | | | |
| The ability to extract from the appropriate system and electronically pass the required data to the following entities: | | | | | | | |
| BENE | 71 | Aetna | | | | | |
| BENE | 72 | Cigna | | | | | |
| BENE | 73 | Marathon Health | | | | | |
| BENE | 74 | MetLife - Dental | | | | | |
| BENE | 75 | Motivano – Benefit Data | | | | | |
| BENE | 76 | Motivano – Payroll Data | | | | | |
| BENE | 77 | P&A FSA | | | | | |
| BENE | 78 | P&A COBRA & Retirees | | | | | |
| BENE | 79 | UNICARE - UniVision | | | | | |

APPENDIX B – QUESTIONS AND ADDITIONAL OFFEROR INFORMATION

Please provide the information requested below:

1. *An overview of the proposed product(s), in terms of modules, third-party components, etc.*
2. *A narrative technical description of the system - including the source language(s) used, Data Base Management Software utilized, communication or network software, a description of any Report Writers or Query Languages used, Security features, and any other features that make the system unique*
3. *Do you license the source code to the product? If not, how to you afford the client any protection against a change of company ownership or dissolution?*
4. *A description of your experience migrating clients from the e-Biz HRMS and Accounting software.*
5. *A description of the Vendor's software support organization and methodology - number of people assigned, average years of experience, availability of a toll free number, hours of coverage, problem escalation procedures.*
6. *A brief description of the system's level of integration with Microsoft Office components, such as Outlook and Excel*
7. *A sample of the system technical documentation.*
8. *A sample of the system user guide/user documentation.*
9. *A description of your customer software upgrade approach. That is:*
 - a. *Frequency of major releases and patches*
 - b. *The migration path*
 - c. *How long superseded releases are supported*
 - d. *How you categorize and implement "major releases" versus periodic for minor updates, bug fixes, etc.*
 - e. *What documentation is provided?*
10. *A general description of the proposed implementation process, including data conversion, implementation sequencing, training, system integration testing, client acceptance testing, and cutover.*
11. *A copy of the Vendor's latest Software License Agreement.*
12. *A copy of the Vendor's latest Software Maintenance Agreement.*

SECURITY and INFRASTRUCTURE-RELATED INFORMATION

1. *Solution Provider must provide the following documentation*
 - a. *Overview of data center infrastructure. If a third party, what is the data center tier?*
 - b. *Where are they located, and how far apart are your data centers?*
 - c. *Network and System infrastructure diagrams*
 - d. *System dataflow / integration diagrams*

e. *Business Continuity and Disaster Recovery plans*

f. *Security, privacy policies and procedures*

i. *Evidence of annual security awareness training for personnel;*

ii. *Periodic testing and evaluation of the effectiveness of information security policies, procedures, practices, and security;*

iii. *A process for planning, implementing, evaluating, and documenting remedial actions to address any deficiencies;*

iv. *Procedures for detecting, reporting, and responding to security incidents.*

2. *Describe how you ensure that data access is limited to those with a "need to know" and controlled by specific individual(s) (administrator).*

3. *Describe your procedures and solutions implemented to prevent unauthorized access, and those procedures must be documented and available for review upon request.*

4. *Describe your formal process to activate and de-activate all user accounts.*

Confirm you are able to provide customer with a "User-List" of any active user and or service accounts to Solution Provider systems on an annual basis or as requested.

Security Assessments and Monitoring

1. *Describe your process for performing systems and applications vulnerability assessments, such as testing patch level, password security, and application security. How often are security updates and regular patches applied? What is your patch pattern? What is the security release schedule?*

| Description of your protocol described in 1 above: | | |
|---|------------------|---------------------------|
| Item | Frequency | Additional Details |
| <i>Security updates</i> | | |
| <i>Security release schedule</i> | | |
| <i>Regular patches</i> | | |
| <i>Patch levels</i> | | |

2. *Routine event and security monitoring will be performed by the Solution Provider; HCS expects that the Solution Provider will routinely and immediately identify events related to unauthorized activity and unauthorized access. Describe your procedures, if any, with respect to:*

a. *Intrusion Detection Systems and Intrusion Prevention Service (IDS/IPS) throughout the network environment and/or real-time security monitoring of their network.*

b. *A formal event and log management solution to collect, aggregate, normalize, correlate, report, and archive appropriate event, system and security logs.*

- c. *SIEM or similar types of solutions*
3. *Describe your regular security audits and the frequency, preferably by certified third parties. Describe the protocol for identified issues and resolution. Customer may ask for written proof of these audits at any time during the duration of the contract. Customer may request Solution Provider to show proof or remediation of critical and material findings from all vulnerability assessments.*
- a. Your **OPERATIONS** audits:
 - i. *SSAE 16/18 (SOC 1, SOC 2, or SOC 3) (Include Issue Date, Type and Opinion) (If you have not yet conducted a SSAE 16 SOC audit, explain plans in place and timing of doing so)*
 - b. Your **DATA CENTER** audit:
 - i. *SSAE 16/18 (SOC 1, SOC 2, or SOC 3) (Include Issue Date, Type, and Opinion Type) (If you have not yet conducted a SSAE 16 SOC audit, explain plans in place and timing of doing so)*
 - c. Your **SECURITY and TECHNICAL** audits, tests and reviews including the following (be sure to list internal or external and if external performed by whom)
 - i. *IT Risk Assessment Audit (ISO 2700 standard)*
 - ii. *Application Code Reviews*
 - iii. *Penetration or Vulnerability Scans*
 - iv. *Security audits*
4. *Has your company been under examination by the Department of Labor (DOL) or Department of Health and Human Services (HHS) within the last 4 years in relation to HIPAA security or procedures? If so, was remedial action required and/or were fines assessed in relation to service failures affecting your current or former clients?*

Secure Transmission & Encryption

1. *Describe your processes for encrypting, securing, transmitting and storing sensitive information.*

| Description of your encryption protocol? | | |
|--|---------------------------|---------------------------|
| Item | Encrypted (Yes/No) | Additional Details |
| a. <i>Level: Database</i> | | |
| b. <i>Level: Field</i> | | |
| c. <i>In Transit</i> | | |
| d. <i>Internal to your network</i> | | |
| e. <i>External to your network</i> | | |
| f. <i>Back-Up Data</i> | | |
| g. <i>Who has control over the decryption keys?</i> | | |
| h. <i>Do you use 256-bit encryption for web interaction?</i> | | |
| i. <i>Are your data files encrypted during transmission? (i.e. SFTP)</i> | | |

| | |
|----|--|
| j. | How is it protected at the destination? |
| k. | Outline the “front door” protection (i.e. protected using ID’s and Passwords). |

| | |
|----------------------------|------------|
| Password protocols. | |
| l. | Length? |
| m. | Construct? |
| n. | Duration? |

1. Describe your authentication process.
2. Describe your secure-email solution.

Data Retention / Policies / Regulations

1. What is your minimum retention policy for customer data?
2. Indicate if Social Security numbers are encrypted when stored and transmitted, and masked on displays and reports if requested by client.
3. If credit cards are processed via a network-based service, the Solution Provider must supply evidence of PCI compliance. Credit card numbers shall not be stored unless Customer has approved a retention period for storage in advance.
4. If applicable, credit card numbers will be encrypted when stored and transmitted, and masked on displays and reports.
5. Confirm compliance with all HIPAA & HITECH requirements and regulations. Confirm you have a dedicated department and/or dedicated staff members responsible for monitoring and assuring HIPAA compliance.
6. Confirm that all data will be retained for periods approved by Customer and will be destroyed or returned to Customer upon termination of the contract or an otherwise mutually determined date. Describe your method for destruction of data.
7. Solution Provider agrees to comply with all state and federal legislation within 90 days of enactment. Compliance process must be communicated to client. Please confirm.

Miscellaneous Items

8. Customer aggressively protects copyrighted material and other intellectual property. All Customer trademarks, logos, emblems, images, and graphics files must be used only with Customer approval, and must be destroyed at the end of the contract. Describe this process.
9. Confirm that you do not share or sell any Customer data to third parties. If data is shared, describe the data shared and process in detail.

- 10.** *Describe how physical access to facilities where data are stored is limited and controlled. If any unauthorized access to Customer data occurred, the Solution Provider must consult with Customer officials, within 10 days, before notifying those affected by the unauthorized access to this data.*

Software Architecture\Software Development\Quality Control

- 11.** *Supply evidence of a formal Quality Control and Change Management process for patch management and software development.*
- 12.** *Solution Provider must provide evidence that Solution Provider has incorporated a multi-layer security review and monitoring program into its software development process. Confirm the following or provide an alternate description: All code must go through a formal Quality Control process for operational characteristics and security design adherence before going onto staging for additional testing. New code in the staging environment should be subjected to penetration and complete security scans. Upon successfully completing this phase of development, and only then, it is promoted to production staging and re-scanned.*
- 13.** *Describe the process for Promotion to full production and how that is coordinated with clients' to insure a smooth transition.*

Incident Response Management

- 14.** *Solution Provider must utilize a defense in-depth security strategy. Provide evidence of a multiple tiered structure with interlaced firewalls that isolate, protect and insure data integrity.*
- 15.** *Disclose whether you have experienced a data breach in the last 5 years and if so, how the breach was mitigated.*
- 16.** *Describe your process if you have to disclose a HIPAA breach of information for a client's EE population. What steps would be taken to resolve breaches due to; 1) Unintentional (Stolen Laptop), 2) Intentional (Disgruntled Employee), or 3) Outside Breach. Do you have a data breach plan and dedicated staff member responsible for monitoring and assuring compliance in place?*
- 17.** *Describe your Computer Security Incident Response Plan and an established Computer Security Incident Response Team. Solution Provider must provide evidence that plan is reviewed and annually.*

3rd Party Relationships

- 18.** *Describe your process of monitoring and holding third parties (independent contractors,*

Solution Providers, or other individuals) to the same level of standards as outlined in this document if those parties have access to Customer data.

- 19.** *Confirm all subcontractors' compliance with all HIPAA & HITECH requirements and regulations. Confirm you will be responsible for executing BAA's with subcontractors and will be responsible for any subcontractor breaches in data security.*

Security Awareness Training & Personnel Safeguards

- 20.** *For employees or third parties that have access to PII, PHI, credit card data, or other Customer sensitive information, describe how you perform and maintain the following records: Background Checks, Credit Checks, and Reference Checks.*
- 21.** *Describe how you provide ongoing security awareness training to personnel with access to PHI, PII, and Credit/Debit Cards. Solution Provider should maintain records of such training.
Training must encompass all types of information regardless of form: (Paper, Electronic, Oral)*
- 22.** *Provide evidence of Non-Disclosure Agreements signed with personnel and third parties with access to PII, PHI, Credit Card/Debit Card and other sensitive information.*

Specific to Solution Providers offering Call Center Recording and Quality Monitoring

- 23.** *To further secure sensitive information obtained via voice communication, Solution Provider system must utilize end-to-end data encryption and key management to secure the calling recordings and database that holds attributes of all recordings. Describe your process.*
- 24.** *Show evidence that calls are digitally watermarked in real time to ensure authenticity. Solution Provider must have a way to validate the authenticity and integrity of any WAV file or any other voice recorded file.*
- 25.** *To further ensure security and compliance with HIPAA and other regulations, Solution Provider must have the capability to store audit trail logs of all user activity within the system. Solution Provider must be able to conduct full trace audits to determine who accessed any recording in the system and when - for playback, export, or any other critical events. Describe audit trail protocol.*
- 26.** *Confirm that all audio\voice recorded files are stored in encrypted form while in transit or at rest.*

Appendix C
RFP 18-180713/EA Benefit Management Software

Information Security Program & Data Access Requirements

Confirm and describe the following requirements and questions.

- 1.1** Solution Provider must provide the following documentation:
1. Overview of data center infrastructure. If a third party, what is the data center tier? Where are they located, and how far apart are your data centers?
 2. Network and System infrastructure diagrams
 3. System dataflow / integration diagrams
 4. Business Continuity and Disaster Recovery plans
 5. Security, privacy policies and procedures
- Evidence of annual security awareness training for personnel;
 - Periodic testing and evaluation of the effectiveness of information security policies, procedures, practices, and security;
 - A process for planning, implementing, evaluating, and documenting remedial actions to address any deficiencies;
 - Procedures for detecting, reporting, and responding to security incidents.
- 1.2** Describe how you ensure that data access is limited to those with a "need to know" and controlled by specific individual(s) (administrator).
- Describe your procedures and solutions implemented to prevent unauthorized access, and those procedures must be documented and available for review upon request.
 - Describe your formal process to activate and de-activate all user accounts. Confirm you are able to provide customer with a "User-List" of any active user and or service accounts to Solution Provider systems on an annual basis or as requested.

Security Assessments and Monitoring

- 2.1** Describe your process for performing systems and applications vulnerability assessments, such as testing patch level, password security, and application security. How often are security updates and regular patches applied? What is your patch pattern? What is the security release schedule?

| | Description of your protocol described in 2.1: | |
|---------------------------|--|--------------------|
| | Frequency | Additional Details |
| Security updates | | |
| Security release schedule | | |
| Regular patches | | |
| Patch levels | | |

2.2 Routine event and security monitoring will be performed by the Solution Provider; Customer expects that the Solution Provider will routinely and immediately identify events related to unauthorized activity and unauthorized access. Describe your procedures, if any, with respect to:

- Intrusion Detection Systems and Intrusion Prevention Service (IDS/IPS) throughout the network environment and/or real-time security monitoring of their network.
- A formal event and log management solution to collect, aggregate, normalize, correlate, report, and archive appropriate event, system and security logs.
- SIEM or similar types of solutions

2.3 Describe your regular security audits and the frequency, preferably by certified third parties. Describe the protocol for identified issues and resolution. Customer may ask for written proof of these audits at any time during the duration of the contract. Customer may request Solution Provider to show proof or remediation of critical and material findings from all vulnerability assessments.

| | |
|----------------|--|
| Question 2.3a. | b. Your OPERATIONS audits: <ul style="list-style-type: none"> SSAE 16/18 (SOC 1, SOC 2, or SOC 3) (Include Issue Date, Type and Opinion) (If you have not yet conducted a SSAE 16 SOC audit, explain plans in place and timing of doing so) |
| Question 2.3b. | c. Your DATA CENTER audit: <ul style="list-style-type: none"> SSAE 16/18 (SOC 1, SOC 2, or SOC 3) (Include Issue Date, Type, and Opinion Type) (If you have not yet conducted a SSAE 16 SOC audit, explain plans in place and timing of doing so) |
| Question 2.3c. | d. Security and Technical audits, tests and reviews including the following (be sure to list internal or external and if external performed by whom) <ul style="list-style-type: none"> IT Risk Assessment Audit (ISO 2700 standard) Application Code Reviews Penetration or Vulnerability Scans Security Audits |

2.4 Has your company been under examination by the Department of Labor (DOL) or Department of Health and Human Services (HHS) within the last 4 years in relation to HIPAA security or procedures? If so, was remedial action required and/or were fines assessed in relation to service failures affecting your current or former clients?

Secure Transmission & Encryption

3.1 Describe your processes for encrypting, securing, transmitting and storing sensitive information.

| Encryption | | | |
|------------------------------------|---|--------------------|--------------------|
| Provide the following information: | | | |
| Question 3.1 a-f. | Description of your encryption protocol? | | |
| | | Encrypted (Yes/No) | Additional Details |
| | a. Level: Database | | |
| | b. Level: Field | | |
| | c. In Transit | | |
| | d. Internal to your network | | |
| | e. External to your network | | |
| | f. Back-Up Data | | |
| Question 3.1 g. | g. Who has control over the decryption keys? | | |
| Question 3.1 h. | h. Do you use 256-bit encryption for web interaction? | | |
| Question 3.1 i. | i. Are your data files encrypted during transmission? (i.e. SFTP) | | |
| Question 3.1 j. | j. How is it protected at the destination? | | |
| Question 3.1 k. | k. Outline the "front door" protection (i.e. protected using ID's and Passwords). | | |
| Question 3.1 l-n. | Password protocols. | | |
| | l. Length? | | |
| | m. Construct? | | |
| | n. Duration? | | |

3.2 Describe your authentication process.

3.3 Describe your secure-email solution.

Data Retention / Policies / Regulations

- 4.1** What is your minimum retention policy for customer data?
- 4.2** Indicate if Social Security numbers are encrypted when stored and transmitted, and masked on displays and reports if requested by client.
- 4.3** If credit cards are processed via a network-based service, the Solution Provider must supply evidence of PCI compliance. Credit card numbers shall not be stored unless Customer has approved a retention period for storage in advance.
- 4.4** If applicable, credit card numbers will be encrypted when stored and transmitted, and masked

on displays and reports.

- 4.5 Confirm compliance with all HIPAA & HITECH requirements and regulations. Confirm you have a dedicated department and/or dedicated staff members responsible for monitoring and assuring HIPAA compliance.
- 4.6 Confirm that all data will be retained for periods approved by Customer and will be destroyed or returned to Customer upon termination of the contract or an otherwise mutually determined date. Describe your method for destruction of data.
- 4.7 Solution Provider agrees to comply with all state and federal legislation within 90 days of enactment. Compliance process must be communicated to client. Please confirm.

Miscellaneous Items

- 5.1 Customer aggressively protects copyrighted material and other intellectual property. All Customer trademarks, logos, emblems, images, and graphics files must be used only with Customer approval, and must be destroyed at the end of the contract. Describe this process.
- 5.2 Confirm that you do not share or sell any Customer data to third parties. If data is shared, describe the data shared and process in detail.
- 5.3 Describe how physical access to facilities where data are stored is limited and controlled. If any unauthorized access to Customer data occurred, the Solution Provider must consult with Customer officials, within 10 days, before notifying those affected by the unauthorized access to this data.

Software Architecture\Software Development\Quality Control

- 6.1 Supply evidence of a formal Quality Control and Change Management process for patch management and software development.
- 6.2 Solution Provider must provide evidence that Solution Provider has incorporated a multi-layer security review and monitoring program into its software development process. Confirm the following or provide an alternate description: All code must go through a formal Quality Control process for operational characteristics and security design adherence before going onto staging for additional testing. New code in the staging environment should be subjected to penetration and complete security scans. Upon successfully completing this phase of development, and only then, it is promoted to production staging and re-scanned.
- 6.3

Describe the process for Promotion to full production and how that is coordinated with clients' to insure a smooth transition.

Incident Response Management

- 7.1 Solution Provider must utilize a defense in-depth security strategy. Provide evidence of a multiple tiered structure with interlaced firewalls that isolate, protect and insure data integrity.
- 7.2 Disclose whether you have experienced a data breach in the last 5 years and if so, how the breach was mitigated.
- 7.3 Describe your process if you have to disclose a HIPAA breach of information for a client's EE population. What steps would be taken to resolve breaches due to; 1) Unintentional (Stolen Laptop), 2) Intentional (Disgruntled Employee), or 3) Outside Breach. Do you have a data breach plan and dedicated staff member responsible for monitoring and assuring compliance in place?
- 7.4

Describe your Computer Security Incident Response Plan and an established Computer Security Incident Response Team. Solution Provider must provide evidence that plan is reviewed and annually.

3rd Party Relationships

- 8.1** Describe your process of monitoring and holding third parties (independent contractors, Solution Providers, or other individuals) to the same level of standards as outlined in this document if those parties have access to Customer data.
- 8.2** Confirm all subcontractors' compliance with all HIPAA & HITECH requirements and regulations. Confirm you will be responsible for executing BAA's with subcontractors and will be responsible for any subcontractor breaches in data security.

Security Awareness Training & Personnel Safeguards

- 9.1** For employees or third parties that have access to PII, PHI, credit card data, or other Customer sensitive information, describe how you perform and maintain the following records: Background Checks, Credit Checks, and Reference Checks.
- 9.2** Describe how you provide ongoing security awareness training to personnel with access to PHI, PII, and Credit/Debit Cards. Solution Provider should maintain records of such training. Training must encompass all types of information regardless of form: (Paper, Electronic, Oral) Provide evidence of Non-Disclosure Agreements signed with personnel and third parties with access to PII, PHI, Credit Card/Debit Card and other sensitive information.

Specific to Solution Providers offering Call Center Recording and Quality Monitoring

- 10.1** To further secure sensitive information obtained via voice communication, Solution Provider system must utilize end-to-end data encryption and key management to secure the calling recordings and database that holds attributes of all recordings. Describe your process.
- 10.2** Show evidence that calls are digitally watermarked in real time to ensure authenticity. Solution Provider must have a way to validate the authenticity and integrity of any WAV file or any other voice recorded file.
- 10.3** To further ensure security and compliance with HIPAA and other regulations, Solution Provider must have the capability to store audit trail logs of all user activity within the system. Solution Provider must be able to conduct full trace audits to determine who accessed any recording in the system and when - for playback, export, or any other critical events. Describe audit trail protocol.
- 10.4** Confirm that all audio\voice recorded files are stored in encrypted form while in transit or at rest.

ATTACHMENT A: PRICING SCHEDULE RFP# 18-180713/EA

INITIAL, ONE-TIME COSTS

SOFTWARE LICENSES: LIST ALL COMPONENTS AND BASIS ^{NOTE 1}

| ITEM NO. | DESCRIPTION | BASIS | QTY | RATE / USER | EXTENDED PRICE |
|----------|-------------|-------|-----|-------------|----------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

NOTE 1: Specify "Named User" or "Concurrent User" and Block Pricing; Direct or 3rd Party

IMPLEMENTATION SERVICES:

| ITEM NO. | DESCRIPTION | QTY | RATE/HR. | EXTENDED PRICE |
|----------|-------------------------------------|-----|----------|----------------|
| 1 | Consulting and Configuration | | | |
| 2 | Software Installation | | | |
| 3 | Data Conversion | | | |
| 4 | Project Management | | | |
| 5 | Identified and Quoted Modifications | | | |
| 6 | User and Technical Training | | | |
| | Other | | | |
| | Other | | | |
| | Other | | | |

RECURRING COSTS

| ITEM NO. | DESCRIPTION | BASIS | PRICE |
|----------|--|-------|-------|
| 1 | Annual Maintenance Subscription (Each Product) | | |
| | | | |
| | | | |
| | | | |
| | | | |

A withdrawal of bid due to error shall be in accordance with Section 2.2-4330 B (1) of the Code of Virginia. The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after conclusion of the bid opening procedure and shall submit original work papers with such notice.

Hampton City Schools does not discriminate on the basis of race, color, national origin, sex, disability, age or other protected classes in its programs, activities and employment practices and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies: Robbin A. Ruth, Executive Director of Human Resources, One Franklin Street, Hampton, Virginia 23669 757-727-2318.

ATTACHMENT B: SAMPLE AGREEMENT FOR NON-PROFESSIONAL SERVICES

PROCUREMENT OFFICE Community Municipal Services/Education Agreement for Non-Professional Services

THE SCHOOL BOARD FOR THE CITY OF HAMPTON
DOES NOT DISCRIMINATE
AGAINST FAITH BASED ORGANIZATIONS.

ARTICLE I – IDENTIFICATION OF PARTIES

This Agreement, made in triplicate on this _____, day of __, 2012, by and between the School Board of the City of Hampton, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the ("School Board") and, _____ a _____ corporation having a place of business at, _____ hereinafter referred to as the ("Contractor").

It is mutually understood and agreed by the parties hereto that the entire contents of RFP # _____, Conditions of Contract (General, Special, and other conditions as they may be titled) Intent to Award Letter, dated _____; (Exhibits "A") and Contractor's Response for Proposal dated _____; (Exhibit "B") are incorporated herein by reference the same if each had been fully set out and attached hereto.

Witnesseth, that the Contractor and the School Board, in consideration of the mutual covenants contained herein with respect to the performance of professional services by the Contractor and the payment for those services by the School Board, the School Board and Contractor agree as set forth below:

ARTICLE II – SCOPE OF SERVICES

The Contractor shall perform services to the School Board in accordance with the highest standards held for _____ on a project-by-project basis. Each agreement shall reference a detailed scope of work for that specific project and include a fixed fee and completion date as specified in certain RFP # _____ and dated _____. In the event that a conflict exists between the referenced proposal of Consultant dated _____, and the terms of this Agreement, the terms of this Agreement shall govern and supersede any such conflicting terms of the proposal.

ARTICLE III – PAYMENT FOR SCOPE OF SERVICES

In consideration of the work to be performed by Contractor, as set forth under Article II entitled Scope of Services, the School Board agrees to pay Contractor in accordance with the schedule of fees as specified in and attached hereto as Exhibit "C" as specified in the above referenced Contractor's Response for Proposal dated _____

To obtain payment for work performed under this Agreement, if the Contractor is an individual, the individual Contractor shall provide his social security number. If the Contractor is a proprietorship, partnership, or corporation, the Contractor shall provide its federal employer identification number.

ARTICLE IV – TIME COMPLETION

- A. This Agreement shall commence on the date set forth in Article I herein, and shall continue in force for _____ years with _____ () additional, one year periods.
- B. Time is of the essence in this Agreement. Contractor expressly acknowledges that in the performance of its obligations, the School Board is relying on timely performance and will schedule operations and incur obligations to third parties in reliance upon timely performance by Contractor and may sustain substantial losses by reason of untimely performance.

ARTICLE V - NON-ASSIGNMENT

Contractor shall not assign its rights and duties under this Agreement without the prior written consent of the School Board.

ARTICLE VI - APPLICABLE LAW/COMPLIANCE WITH ALL LAWS/PROMPT

PAYMENT/ VENUE

A. Applicable Law:

This Agreement shall be deemed to be a Virginia Contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

B. Compliance with all Laws:

Contractor shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of scope work set forth herein. Contractor represents that it possesses all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for performance of this Agreement prior to the initiation of work. Contractor does not and shall not during the performance of the Agreement knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

C. Payments to Subcontractors:

In accordance with Title 2.2, Chapter 43, Article 4 of the Code of Virginia (Virginia Public Procurement Act), Contractor shall make payment to all subcontractors, as defined in the Code, within seven (7) days after receipt of payment from the School Board; or, shall notify the School Board and subcontractors in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment. In the event payment is not made as noted, Contractor shall pay interest at the rate of one (1) percent per month, unless otherwise provided in the Agreement, to the subcontractors on all amounts that remain unpaid after seven (7) days except for the amounts withheld as provided herein.

These same requirements shall be included in each subcontract and shall be applicable to each lower-tier subcontractor.

Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the School Board. An Agreement modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

D. Venue:

Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in the City of Hampton.

ARTICLE VII - NONDISCRIMINATION

A. Employment discrimination by Contractor shall be prohibited. During the performance of this Agreement, Contractor agrees as follows:

1. Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification/consideration reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that Contractor is an equal opportunity employer.

3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.
4. Contractor will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

ARTICLE VIII- DRUG FREE WORKPLACE

A. During the performance of this Agreement, Contractor agrees as follows:

1. Contractor will provide a drug-free workplace for Contractor's employees.
2. Contractor will post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
3. Contractor will state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace.
4. Contractor will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor vendor.

ARTICLE IX - NON-APPROPRIATION - Availability of Funds

It is understood and agreed between the parties hereto that the School Board shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for the purpose of this Agreement. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this Agreement, the School Board shall immediately notify Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal year for which (an) appropriation(s) (was) were received without penalty or expense to the School Board of any kind whatsoever.

ARTICLE X – TERMINATION OF AGREEMENT

A. Termination without Cause

The School Board may at any time, and for any reason, terminate this Agreement by written notice to Contractor specifying the termination date, which shall be not less than ten (10) days from the date such notice is mailed.

Notice shall be given to Contractor by certified mail/return receipt requested at the address set forth in Article I of this Agreement.

In the event of such termination, Contractor shall be paid such amount as shall compensate Contractor for the work satisfactorily completed, and accepted by the School Board, at the time of termination.

If the School Board terminates this Agreement, Contractor shall withdraw its personnel and equipment, if any, cease performance of any further work under this Agreement, and turn over to the School Board any work completed or in process for which payment has been made.

B. Termination with Cause / Default / Cancellation

In the event that Contractor shall for any reason or through any cause be in default of the terms of this Agreement, the School Board may give Contractor written notice of such default by certified mail/return receipt requested at the address set forth in Contractor's Bid Proposal or in Paragraph I of this Agreement.

Unless otherwise provided, Contractor shall have ten (10) days from the date such notice is mailed in which to cure the default. Upon failure of Contractor to cure the default, the School Board may immediately cancel and terminate this Agreement as of the mailing date of the default notice.

Upon termination, Contractor shall withdraw its personnel and equipment, if any, cease performance of any further work under the Agreement, and turn over to the School Board any work in process for which payment has been made.

In the event of violations of law, safety or health standards and regulations, this Agreement may be immediately cancelled and terminated by the School Board and provisions herein with respect to opportunity to cure default shall not be applicable.

ARTICLE XI – OWNERSHIP OF DOCUMENTS/FREEDOM OF INFORMATION ACT

Ownership of all materials and documentation including the original drawings and the Plans and Specifications and copies of any calculations and analysis prepared pursuant to the Agreement between the School Board and the Contractor, shall belong exclusively to the School Board. Such materials and documentation, whether completed or not, shall be the property of the School whether the Work for which they are made is executed or not. The Contractor shall not use these materials on any other work or release any information about these materials without the express written consent of the School Board.

Such material may be subject to public inspection in accordance with the Virginia Freedom of Information Act. Security related documents and information are excluded from the Act unless a specific need to know can be shown. Trade secrets or proprietary information submitted by a bidder, offeror, or Contractor in connection with a procurement transaction shall not be subject to disclosure under the Virginia Freedom of Information Act provided the bidder, offeror, or Contractor invokes the protections of §2.2-4342, Code of Virginia, prior to or upon submission of the data or other materials, identifies the data or materials to be protected and states the reason why the protection is necessary.

ARTICLE XII – HOLD HARMLESS – INDEMNIFICATION

A. Professional Responsibility of Contractor

Contractor agrees, for itself, its agents, servants, employees, subcontractors, and sub-contractors, to perform all work hereunder or associated herewith in accordance with any and all applicable professional standards and in accordance with general industry practice and principles.

As to all matters of professional responsibility, Contractor agrees to indemnify and hold harmless the School Board and its agents, volunteers, servants, employees and officials from and against any and all liability, losses, reasonable attorney's fees and litigation expenses or other expenses suffered by any indemnified party or entity as the result of any claim to the extent it is found to have been caused by the negligent acts, errors, or omissions of Contractor, or those for whom Contractor is legally liable.

With the prior approval of the School Board, Contractor may assume the defense of any such professional liability claim(s) made against the School Board, its agents, volunteers, servants, employees or officials.

B. General Responsibility of Contractor

As to all matters of liability related to or arising out of this Agreement other than professional liability, Contractor agrees to indemnify and hold harmless the School Board, its agents, volunteers, servants, employees and officials from and against any and all liability, losses, reasonable attorney's fees and litigation expenses, or other expenses suffered by any indemnified party or entity as a result of any claim to the extent that it is found to have been caused by the acts, errors, or omissions of Contractor or those for whom Contractor is legally liable.

With the prior approval of the School Board, Contractor may assume the defense of any such claim(s) made against the School Board, its agents, volunteers, servants, employees or officials.

ARTICLE XIII – INSURANCE

Contractor shall submit to the School Board Contract Administrator certificates of insurance with applicable endorsements to the policy attached, prior to beginning work under this Agreement and no later than ten (10) days after award of the Agreement.

All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to the School Board.

The certificate of insurance shall list the School Board of the City of Hampton, 1 Franklin Street, Hampton, Virginia 23669, as the additional insured for the specified project as outlined in this RFP. The Endorsement to the policy would be that which is attached to the Contractor's liability policy that acknowledges the School Board as an additional insured on all policies the School Board is made an additional insured. This shall be either a direct Endorsement that actually names the School Board of the City of Hampton or a Blanket Endorsement within the insurance policy that states that under a contractual agreement the School Board will be named as an also insured on the required insurance policy. Insurance shall be primary and the additional insured's primary coverage is non-contributory.

Insurance shall be maintained during the entire term of the Agreement and any extensions and shall be of the following forms and limits:

| Forms | limits |
|-------------------------------|--|
| workers' compensation | statutory |
| automobile liability | \$1,000,000 combined single limit |
| commercial general liability, | \$1,000,000 combined single limit including contractual liability and products and completed operations coverage |
| umbrella/excess liability | \$2,000,000 |

The establishment of minimum limits of insurance by the School Board does not reduce or limit the liability or responsibilities of the Contractor.

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO IMMEDIATELY NOTIFY THE SCHOOL BOARD SHOULD ANY POLICY BE CANCELLED. FAILURE TO NOTIFY THE SCHOOL BOARD SHALL CONSTITUTE A MATERIAL BREACH OF THE AGREEMENT.

Should any of the above described policies be cancelled before the expiration date thereof, notice shall be delivered in accordance with the policy provisions". The School Board further requires thirty (30) days notice of cancellation must be noted in the policy or in additional insured and alternate employer endorsements. Failure to obtain such notice provisions will Constitute a material breach of this Agreement.

ARTICLE XIV – EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the School Board and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral.

ARTICLE XV - CONTRACTOR'S REIMBURSABLE EXPENSES

1. The Contractor's reimbursable expenses shall not include those incidental expenses such as supplies, utilities, which are a part of normal over head costs.
2. Such expenses shall include those not normally a part of XV.1 and those relating directly to the scope of this Project. Examples of such shall include, but not be limited to reasonable travel, lodging, fees paid on behalf of the School Board when authorized by same, specification and drawing reproductions beyond the first two sets when authorized by the School Board, overtime when authorized by the School Board.
3. Payment for reimbursable expenses shall be at cost, due monthly upon presentation of an invoice. The School Board reserves the right to request proof of such expense before payment.

ARTICLE XVI - CONTRACTOR'S ACCOUNTING RECORDS

Records of Reimbursable Expenses and expenses pertaining to Additional Services on the Project and for services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on a generally recognized accounting basis and shall be available to the School Board or his authorized representative at mutually convenient times.

ARTICLE XVII - AUDITS

The School Board shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Agreement (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Contractor, including, but not limited to those kept by Contractor, its employees, agents, assigns, successors and subcontractors. Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Agreement and for at least three years following the completion of this Agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the School Board, through its employees, agents, representatives, Contractors or other designees, during normal business hours at Contractor's office or place of business in Hampton Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Hampton.

ARTICLE XVIII - MODIFICATION

There may be no modification of this Agreement, except in writing, executed by the authorized representatives of the School Board and Contractor.

ARTICLE XIX- SEVERABILITY

If any part, term, or provision of this Agreement, shall be found by the Court to be legally invalid or unenforceable, then such provision or portion thereof, shall be performed in accordance with applicable laws. The invalidity or unenforceability of any provision or portion of any contract document shall not affect the validity or any other provision or portion of the contract document.

ARTICLE XX- FOREIGN AND DOMESTIC BUSINESSES-AUTHORITY TO TRANSACT BUSINESS IN THE COMMONWEALTH

Contractor whether organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity and shall provide proof thereof. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth to be revoked or cancelled at any time during the term of the Agreement. Failure by the Contractor to remain in compliance with the provisions of this section shall be deemed a material breach of this Agreement.

REPRESENTATIVES AND NOTICES

Any notice, demand, or request by or made pursuant to this AGREEMENT shall be deemed properly made if personally delivered in writing or sent by the parties in the United States mail, postage paid, to the representative specified below or as otherwise designated in writing and mutually agreed.

The SCHOOL BOARD'S representation shall be (name and title of representative goes here):

The CONTRACTOR'S representation shall be (name and title of representative goes here):

With a copy to: LIn Whitley
Procurement Manager
City of Hampton
1 Franklin Street, 3rd Floor
Hampton, Virginia 23669

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the CONTRACTOR and the SCHOOL BOARD.

Hampton City Schools does not discriminate on the basis of race, color, national origin, sex, disability, age or other protected classes in its programs, activities, and employment practices and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handles inquiries regarding the non-discrimination policies: Robbin A. Ruth, Executive Director of Human Resources, One Franklin Street, Hampton, Virginia 23669 757-727-2318

ARTICLE XX. SIGNATURE OF PARTIES

As evidence of their agreement to the terms and conditions set forth herein, the parties affix their authorized signatures hereto:

ATTEST: THE SCHOOL BOARD OF THE CITY OF HAMPTON

City Clerk (Signature) _____
School Superintendent/Authorized Designee

OFFICE OF THE SCHOOL BOARD OF THE CITY OF HAMPTON ATTORNEY
Approved as to legal form and sufficiency

Date: _____

Deputy City Attorney

ATTEST: Company Name

Corporate Secretary/Authorized Agent By: _____
Signature of Corporate Officer
Its: _____

STATE OF
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____.

2012, by _____ Name _____ (title) President _____, of _____ Company Name _____, a _____ Corporation _____ on its behalf. He/She is personally known to me or has produced _____ as proper identification.

Notary Public

My Commission expires: _____ Registration No. _____

ATTACHMENT C: MINORITY AND WOMAN-OWNED BUSINESS PROGRAM

The City of Hampton is implementing new strategies to solicit and utilize minority and woman-owned businesses. To encourage and sustain utilization of minority and woman owned businesses, subcontracting goals have been established for City contracts of \$100,000 and above. The minority and woman-owned subcontracting goals are established by business categories.

The subcontracting goals established for this contract include:

Minorities (MBE) 4.34% Non-minority women (WBE) 3.82%

Solicitation meetings will be held on contracts \$100,000 and above to assist in attaining the contract minority and woman owned business goals.

The City requires that each minority and woman-owned business become a certified Small, Woman and Minority owned business (SWAM) by the Virginia Department of Small Business and Supplier Diversity (SBSD).

Any minority or woman-owned business that is not a certified SWAM vendor will not be considered for meeting the contract goals as established.

Prime Contract solicitations require bidders to include, as part of their proposal or bid, a subcontracting plan to include certified minority and woman-owned vendors during the course of the contract work.

- A listing of all certified minority and woman-owned subcontractor vendors
- The dollar value of each subcontract
- A description of type of work to be performed under each contract
- SWAM certification number and contact information for each minority and woman-owned firm

Prime Contractor subcontractor/supplier solicitation information will be submitted to document firms contacted for quotes.

Prime Contractor solicitations and resulting contracts will require each successful bidder to report actual subcontract payments quarterly to the City Procurement Department to ensure accurate utilization records.

Prime Contractors are to submit quarterly sub-contractor payment information on all certified minority and woman-owned vendors no less than quarterly after the Notice to Proceed (NTP) is issued by the Public Works Department.

Failure of a Prime Contractor to submit required documentation to the City can result in the withholding of a payment and/or other sanctions imposed by the City of Hampton.

All bids submitted must include a subcontracting plan to be considered when determining the lowest responsible and responsive bidders by the City.

Changes to the subcontracting plan will require approval from the Procurement Office and Minority Business Program Office during the life of the contract.

Failure of a contractor to adhere to its subcontracting plan may under certain circumstances, result in future loss of contracts and/or debarment from bidding by the City of Hampton.

In these cases contractors will be requested to submit documentation of good faith efforts used to meet their subcontracting plan. Determination of efforts will be made on an individual contract basis. It is recommended that contractors pre-qualify or determine the subcontractors' capabilities prior to subletting work.

Good Faith efforts are documented reasonable steps taken to achieve a contract goal. These efforts are those taken by a bidder actively and aggressively trying to obtain the established goal. Mere pro forma efforts are not good faith efforts. It is not intended to be a mandatory checklist nor is it intended to be exclusive or exhaustive. **Other factors or types of efforts may be relevant in appropriate cases. The following is a list of types of actions which are considered good faith efforts:**

- Soliciting through reasonable and available means (pre-bid meetings, advertisements, phone calls, community organizations, etc.)
- Selecting portions of the work to be subcontracted out to increase the likelihood that a contract goal can be achieved.
- Providing interested firms with information necessary to respond in a timely manner to a request for solicitation
- Effectively using the services of available minority and woman-owned organizations, local, state and federal small business assistance offices, etc.

Documentation of such efforts can include a listing of M/WBE firm names, contact information, description of information provided and dates received quotes, etc.

(Please note: this requirement should not be construed as authorizing or directing the exclusion of non-SWAM owned businesses; rather, the purpose is to include as many qualified businesses as possible).

Any Prime Contractor that is a SBSD certified minority or woman-owned vendor that is awarded a contract of \$100,000 and above is not required to submit the above information as the Prime Contractor is itself such a certified business. This does not, however, relieve such a Prime from the obligation to achieve both contract goals during the life of the contract. The City of Hampton reserves the right to review subcontracting plans and good faith efforts to ensure that both goals are achieved.

The City of Hampton will utilize a performance evaluation process that will include documenting the quality of work and business practices of all vendors used on City contracts of \$100,000 and above.

The suggested forms are attached for use by bidders to ensure consistent submission of required data.

CITY OF HAMPTON

DEPARTMENTAL MINORITY AND WOMAN-OWNED BUSINESS SOLICITATION

TELEPHONE RECORD FOR GOODS AND SERVICES

| Date | Department | Bidder #1 | Bidder #2 | Bidder #3 |
|---------------|------------------|------------------------|------------------------|------------------------|
| Firm name | | | | |
| Address | | | | |
| Phone no. | | | | |
| Fax no. | | | | |
| Email address | | | | |
| Quantity | Item description | Unit Price/Total Price | Unit Price/Total Price | Unit Price/Total Price |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Completed by: _____ Date: _____

Department Director: _____

CITY OF HAMPTON

SUBCONTRACTOR/SUPPLIER UTILIZATION FORM
POTENTIAL MINORITY AND WOMAN-OWNED BUSINESS PARTICIPATION

Project no. _____ Date submitted: _____

Bid goal % _____ Total Contract Value _____

| Firm name | Certification no. | Type (M/W) | Percent bid | Dollar value | Type of work |
|-----------|-------------------|------------|-------------|--------------|--------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

I/We propose that the certified SBSD businesses will be used on this contract as stated herein and assure that during the life of the contract. I/We will meet the goal established by the City of Hampton.

Bidder _____

Signature _____

Title _____ Date _____

CITY OF HAMPTON

SUBCONTRACTOR/SUPPLIER SOLICITATION AND UTILIZATION FORM (ALL)

Project no. _____ Date _____

The bidder certifies that this form accurately represents its solicitation and utilization or non-utilization as indicated of the SBSD certified minority and woman-owned businesses listed below for performance of work on this project. The bidder certifies that he/she has had direct contact (email, fax, phone) with the named firms regarding performing work on this project.

Bidder _____ Signature_____

| Vendor no. | Name of firm | Telephone no. | SWAM Yes/No | Utilized Yes/No |
|------------|--------------|---------------|----------------|--------------------|
| | | | | |
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CITY OF HAMPTON MINORITY AND WOMAN-OWNED BUSINESS PAYMENT REPORT

Contractor _____ Date _____

Project no. _____ Reporting period _____ to _____

| Firm name | Certification no. | SWAM type (M/WBE) | This quarter | To date | Type of work |
|---|-------------------|-------------------|--------------|---------|--------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Total dollar value amount paid to date to SWAM vendor | | | | | |

I/We certify that the information provided is accurate, current and complete to the best of my/our knowledge.

Company _____

Print name _____ Title _____

FREQUENTLY ASKED QUESTIONS (FAQ's) - MBE & WBE Goals

Frequently Asked Questions (FAQ's) - MBE & WBE Goals

1. *How do I know if there is a goal on a project?*

It will be mentioned in the ITB (Invitation to Bid) or RFP (Request for Proposal). Bidders are encouraged to utilize certified SWaM vendors towards their efforts in meeting the MBE and WBE goals.

2. *What is a SWaM vendor?*

SWaM is the acronym for Small, Women and Minority owned businesses. A SWaM vendor is a business that has been certified by the Virginia Department of Small Business and Supplier Diversity (SBSD) and is listed in the SWaM Vendor Directory.

3. *Where can I find a list of SWaM certified MBE and WBE businesses?*

A list of certified SWaM businesses can be found at the following websites:

- City of Hampton Small Business Directory: <http://hamptonpublic.hampton.gov/swam/search.aspx> allows searches by SWaM type, city location and description of work.
- Virginia Department of Small Business and Supplier Diversity www.sbsd.virginia.gov
The SBSD website allows searches by company name, SWaM type, NIGP commodity code or description and Zip & NIGP Code.

4. *Is it possible to meet both the MBE and WBE goals utilizing one contractor?*

No. It is not possible to meet both the MBE and WBE goals utilizing one contractor. These are two separate goals; one for MBE and one for WBE and are independent of each other.

5. *I have worked with a minority owned business in the past, but they are not SWaM certified, can I still use them towards meeting the goal?*

No. The City requires that each minority and woman-owned business become SWaM certified by SBSD. Any minority or woman-owned business that is not a certified SWAM vendor will not be considered for meeting the contract goals as established.

6. *I am a Minority /Woman Owned Business, but I am not SWaM certified, how do I get certified?*

As found on the SBSD website, there are four steps to get certified: Complete an online application, Print out your application, Collect your supporting documentation on the checklist and send the signed application form to the SBSD. Visit their website at www.sbsd.virginia.gov to start the process.

7. *I am a SWaM certified minority / woman owned business, do I still need to meet the MBE and WBE goals?*

Yes. The City of Hampton encourages all prime contractors bidding on a project to document efforts and meet the goals.

8. *Can I utilize vendors certified as a Small Business (S) that I found on the City of Hampton's Directory or the Virginia Department of Small Business and Supplier Diversity Directory?*

You can, but it won't be counted towards meeting the MBE and WBE goals. To meet the MBE goal a business needs to be certified as a Minority Owned Business Enterprise (M), Minority Owned Small Business Enterprise (MS). To meet the WBE goal a business needs to be certified as a Woman Owned Business Enterprise (W) or Woman Owned Small Business Enterprise (WS).

9. Which forms do I have to turn in at bid opening?

There are 3 forms in your bid response forms pertaining to the Minority Business Program. At time of bid opening, submit Form 1 (Solicitation Telephone Record for Goods and Services), Form 2 (Subcontracting/Supplier Utilization Form) and Form 3 (Subcontractor/Supplier Solicitation and Utilization Form). *If awarded a contract, Payment Information will need to be submitted MONTHLY during the course of the contract using Form 4 (Minority and Woman-Owned Business Payment Report).*

10. Which is the official form to list the Minority and Woman Owned subcontractors I am proposing to utilize on the project?

Fill out Form 2 (Subcontracting/Supplier Utilization Form) completely. Bidders must include this form as part of their proposal or bid to list certified minority and woman-owned vendors they plan to utilize on the project. This form should include information on:

- The dollar value and percentage for each subcontractor
- A description of type of work to be performed
- SWaM certification number and contact information for each minority and woman-owned firm

11. I contacted a SWaM certified minority/women owned business, but I won't be utilizing them, how do I document this?

Fill out Form 2 (Subcontractor/Supplier Solicitation and Utilization Form) completely.

12. How do I document good faith efforts?

Fill out Form 2 (Subcontractor/Supplier Solicitation and Utilization Form Solicitation) completely. Documentation of such efforts can include a listing of M/WBE firm names, contact information, description of information provided and dates received quotes, etc.

13. If awarded a contract, on what form do I report the payments made to subcontractors?

Successful bidders on City contracts will be required to report actual subcontract payments quarterly to the City Department to ensure accurate utilization records. Fill out Form 4 (Payment Information) completely to report this information.

14. At what point must a vendor be SWaM certified in order to be counted towards meeting the MBE and WBE goals?

15. By the bid opening date when an Invitation to Bid (ITB) is due.

16. Who can I contact if I have specific questions or need additional help finding certified minority or woman owned businesses?

You can contact the City of Hampton's Minority Business Office located within the Economic Development Department at (757) 728-5171.